

Exhibit V - Deposition of Rule
30(b)(6) witness Chief Reggie
Rader (LVMPD's CIRP
Process)

30(b)(6) for Las Vegas Metropolitan Police Department
Reggie Rader Latia Alexander, et al. v. Las Vegas Metropolitan Police Department, et al.

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1 CERTIFICATE OF COURT REPORTER


2 STATE OF NEVADA)
3) ss:
4 COUNTY OF CLARK)

5 I, Heidi K. Konsten, Certified Court Reporter
6 licensed by the State of Nevada, do hereby certify
7 that I reported the deposition of REGGIE RADER,
8 commencing on February 21, 2025, at 9:08 a.m.

9 Prior to being deposed, the witness was duly
10 sworn by me to testify to the truth. I thereafter
11 transcribed my said stenographic notes via
12 computer-aided transcription into written form,
13 and that the transcript is a complete, true and
14 accurate transcription and that a request was not
15 made for a review of the transcript.

16 I further certify that I am not a relative,
17 employee or independent contractor of counsel or
18 any party involved in the proceeding, nor a person
19 financially interested in the proceeding, nor do I
20 have any other relationship that may reasonably
21 cause my impartiality to be questioned.

22 IN WITNESS WHEREOF, I have set my hand in my
23 office in the County of Clark, State of Nevada,
24 this March 4, 2025.

25 
Heidi K. Konsten, RPR, CCR No. 845

1 UNITED STATES DISTRICT COURT

2 DISTRICT OF NEVADA

3 * * * * *

4 LATIA ALEXANDER,)
 individually as heir of)
 5 ISAAH T. WILLIAMS and in)
 her capacity as special)
 6 administrator of the Estate)
 of ISAAH T. WILLIAMS,)

7)
 Plaintiff,)

8)
 vs.)

9) CASE NO.
 2:24-cv-00074-APG-NJK

10 LAS VEGAS METROPOLITAN)
 POLICE DEPARTMENT, a)
 political subdivision of)
 11 the State of Nevada; KERRY)
 KUBLA, in his individual)
 12 capacity, et al.,)

13)
 Defendants.)

14

15 VIDEOTAPED DEPOSITION OF

16 REGGIE RADER

17 30(b)(6) for Las Vegas Metropolitan

18 Police Department

19 Taken on February 21, 2025

20 at 9:08 a.m.

21 By a Certified Court Reporter

22 Las Vegas, Nevada

23

24 Stenographically reported by:
 Heidi K. Konsten, NV CCR 845, RPR
 25 JOB NO. 59663 - Firm No. 116F

<p>1 Videotaped deposition of REGGIE RADER, 2 Volume I, stenographically taken at 400 South 3 Seventh Street, 3rd Floor, Las Vegas, Nevada, on 4 Friday, February 21, 2025, at 9:08 a.m., before 5 Heidi K. Konsten, Certified Court Reporter in and 6 for the State of Nevada. 7 8 APPEARANCES OF COUNSEL 9 For the Plaintiff: 10 ADAM J. BREEDEN, ESQ. 11 Breedren & Associates, PLLC 12 7432 West Sahara Avenue 13 Suite 101 14 Las Vegas, Nevada 89117 15 (702) 508-9250 16 (702) 508-9365 Fax 17 For the Defendants: 18 CRAIG R. ANDERSON, ESQ. 19 Marquis Aurbach 20 10001 Park Run Drive 21 Las Vegas, Nevada 89145 22 (702) 382-0711 23 (702) 382-5816 Fax 24 25 Also present: Samuel Camacho, Videographer * * * * *</p>	<p>2 4 1 LAS VEGAS, NEVADA 2 Friday, February 21, 2025 3 9:08 a.m. 4 DEPOSITION OF REGGIE RADER 5 ***** 6 (Exhibits 1 through 5 were 7 marked.) 8 9 THE VIDEOGRAPHER: Today is 10 February 21st, 2025. The time is approximately 11 9:08 a.m. Your court reporter is Heidi Konsten, 12 and I'm your videographer, Samuel Camacho. We are 13 here on behalf of Lexitas. 14 The witness today is Reggie Rader, a 15 30(b)(6). And we are here in the case of Latia 16 Alexander, et al., versus Las Vegas Metropolitan 17 Police Department, et al. 18 Will counsel please state your 19 appearances, and the court reporter will 20 administer the oath. 21 MR. BREEDEN: This is Attorney Adam 22 Breedren for the plaintiff. 23 MR. ANDERSON: Craig Anderson for the 24 defendants. 25</p>
<p>3 1 INDEX 2 3 REGGIE RADER 4 Examination by Mr. Breedren 5 * * * * * 6 7 EXHIBITS 8 No. Description Page 9 Exhibit 1 Notice of Videotaped 10 Deposition 4 11 12 Exhibit 2 January 3, 2023, LVMPD 13 Interoffice Memorandum 4 14 15 Exhibit 3 January 31, 2023, LVMPD 16 Interoffice Memorandum 4 17 18 Exhibit 4 January 10, 2022, Force 19 Investigation Team Report 4 20 21 Exhibit 5 Office of Internal 22 Oversight Review Key 23 Findings, Conclusions, 24 and/or Recommendations of 25 an Officer-Involved Shooting * * * * *</p>	<p>5 1 Whereupon, 2 REGGIE RADER, 3 was called as a witness, and having been first duly 4 sworn to testify to the truth, was examined and 5 testified as follows: 6 7 EXAMINATION 8 BY MR. BREEDEN: 9 Q Good morning, sir. Can you please state 10 your name for the record, and go ahead and spell 11 your name for the court reporter, as well. 12 A My name is Reggie Rader, R-E-G-G-I-E, 13 Rader, R-A-D-E-R. 14 Q Okay. And, Mr. Rader, what's your 15 position currently at the Las Vegas Metropolitan 16 Police Department? 17 A I am a deputy chief over the homeland 18 security division. 19 Q Okay. And you understand that you are 20 here in today's litigation to testify on behalf of 21 Las Vegas Metropolitan Police Department regarding 22 an officer-involved shooting that resulted in the 23 death of Isaiah Williams which occurred on 24 January 10 of 2022; is that correct? 25 A It is.</p>

<p>6</p> <p>1 Q All right. First of all, does Metro</p> <p>2 expect that its officers will follow Metro's own</p> <p>3 internal policies, procedures, and training?</p> <p>4 A Yes.</p> <p>5 Q And does Metro expect its officers and</p> <p>6 employees to conduct themselves so that they do</p> <p>7 not infringe on the civil rights of the public?</p> <p>8 A Yes.</p> <p>9 Q Okay. Frankly speaking here, in this</p> <p>10 officer-involved shooting, were mistakes made by</p> <p>11 Metro in the policy, planning, or execution of</p> <p>12 this search warrant?</p> <p>13 A On the administrative level?</p> <p>14 Q On any level.</p> <p>15 A Yes.</p> <p>16 Q I'll ask you about that in more detail</p> <p>17 as we go through this deposition, but let me back</p> <p>18 up a little bit. First of all, I want to go</p> <p>19 through the deposition process a little bit with</p> <p>20 you.</p> <p>21 Have you ever been deposed before?</p> <p>22 A Yes.</p> <p>23 Q How many times?</p> <p>24 A One time.</p> <p>25 Q All right. I'll ask you about that</p>	<p>8</p> <p>1 tried to later change it.</p> <p>2 Do you understand that?</p> <p>3 A I do.</p> <p>4 Q It is important for us to make a good</p> <p>5 record during today's deposition. So there's</p> <p>6 several -- there are several things I will ask you</p> <p>7 to do for me.</p> <p>8 First of all, if you don't understand</p> <p>9 any of my questions, please ask me to repeat or</p> <p>10 rephrase them, and I'll be happy to do so for you.</p> <p>11 During today's deposition, you always</p> <p>12 need to give an audible or out loud or verbal</p> <p>13 response to my questions, such as a simple "yes"</p> <p>14 or "no." Please avoid shaking your head up and</p> <p>15 down or side to side if you mean yes or no or</p> <p>16 using slang terms such as "uh-huh" or "huh-uh,"</p> <p>17 because those sort of nonverbal responses don't</p> <p>18 show up well, if at all, on the transcript when we</p> <p>19 go back and look at it.</p> <p>20 Can you do that for me?</p> <p>21 A I can.</p> <p>22 Q You've done an excellent job so far for</p> <p>23 me, but as a general rule during the deposition,</p> <p>24 try not to speak at the same time anyone else is</p> <p>25 speaking. We will all afford you the same</p>
<p>7</p> <p>1 in -- more in just a couple of seconds here.</p> <p>2 But understand that the oath that was</p> <p>3 just administered to you by the court reporter is</p> <p>4 the same oath that you would take in a court of</p> <p>5 law as if you were in front of a judge and a jury</p> <p>6 today, and it obligates you to tell the truth</p> <p>7 under penalty of perjury.</p> <p>8 Do you understand that?</p> <p>9 A I do.</p> <p>10 Q Your deposition is being videotaped and</p> <p>11 your testimony may be read or played for the jury</p> <p>12 later in this case.</p> <p>13 Do you understand that?</p> <p>14 A I do.</p> <p>15 Q The court reporter is taking down</p> <p>16 everything that's said during today's deposition.</p> <p>17 Afterwards, she will put everything in a booklet</p> <p>18 or a transcript form. You'll have the right to</p> <p>19 review that transcript and make changes to your</p> <p>20 testimony if you wish.</p> <p>21 But I want to caution you that if you</p> <p>22 make a substantive change in your testimony -- in</p> <p>23 other words, you say one thing here today and then</p> <p>24 later you try to change your testimony, I would</p> <p>25 have the right to comment on the fact that you</p>	<p>9</p> <p>1 courtesy. And one of the reasons why I ask you to</p> <p>2 do that is because it is very important -- very</p> <p>3 difficult for the court reporter to accurately</p> <p>4 take down what two people are saying at the same</p> <p>5 time.</p> <p>6 Do you understand that?</p> <p>7 A I do.</p> <p>8 Q During today's deposition, your attorney</p> <p>9 may object to one or more of my questions. I want</p> <p>10 to explain to you how objections work during the</p> <p>11 deposition process, because they work a little</p> <p>12 differently than what you might have seen on TV or</p> <p>13 in a courtroom.</p> <p>14 As you can tell today, we do not have a</p> <p>15 judge present here in this conference room to</p> <p>16 immediately rule on objections. So what we do</p> <p>17 during a deposition, is if I ask a question and</p> <p>18 the other attorney wants to state an objection,</p> <p>19 they will do so clearly for the record and state</p> <p>20 the basis, and then we will still look to you to</p> <p>21 give your response. Then later, if the judge</p> <p>22 needs to go back on the transcript and rule</p> <p>23 whether your response is admissible, the judge can</p> <p>24 do so.</p> <p>25 I explain this to you before we begin,</p>

<p>10</p> <p>1 because this confuses many people when they're new 2 to this process. They hear deposition [sic], and 3 they think, oh, I'm not supposed to answer 4 because -- they hear an objection, and they think 5 they're not supposed to answer, but generally the 6 opposite is true during a deposition. 7 Do you understand that? 8 A I do understand. 9 Q Okay. Have you consumed any alcoholic 10 beverages in the last 24 hours? 11 A No. 12 Q Have you taken any drugs, including 13 prescription medications, in the last 48 hours? 14 A No. 15 Q Do you have any sort of medical 16 condition -- an extreme example would be dementia 17 or Alzheimer disease -- that may affect your 18 memory or your ability to testify here today? 19 A I do not. 20 Q Okay. Now, in front of you is 21 Exhibit 1. Can you please turn to that exhibit. 22 Your deposition here today was requested 23 under Federal Rule of Civil Procedure 30(b)(6). 24 And this is a rule where if a corporate or 25 governmental entity is sued, we can serve a</p>	<p>12</p> <p>1 knowledge about the incident. But in this 2 particular case, you do have some personal 3 knowledge because you were actually a member of 4 the Tactical Review Board that reviewed this 5 officer-involved shooting; correct? 6 A Correct. 7 Q Did you have any other personal 8 involvement in the planning or execution of this 9 search warrant? 10 A No. 11 Q All right. So your first involvement or 12 the first time you heard of this was after it 13 occurred? 14 A Correct. 15 Q All right. I want to sort of know the 16 universe of documents that you have reviewed and 17 people that you have spoken to in order to prepare 18 yourself to testify today. So let's start with 19 documents. 20 What documents have you reviewed? 21 A I have reviewed the Critical Incident 22 Review Team findings from the use-of-force board 23 and the Tactical Review Board. I have reviewed 24 the LVMPD policy on the critical incident review 25 process. And I reviewed the memorandum and then</p>
<p>11</p> <p>1 deposition notice with a list of topics, and then 2 it's up to the entity -- in this case, Las Vegas 3 Metropolitan Police Department -- to produce a 4 witness who can testify as to those topics in a 5 manner that binds Metro. 6 So I did not specifically ask that you 7 be here today, only that a witness as to certain 8 topics be produced. 9 Do you understand that? 10 A I do. 11 Q Okay. Now, looking at Exhibit 1, which 12 is -- it's the deposition notice followed by the 13 list of topics, have you seen that prior to today? 14 A I have. 15 Q Okay. And then I have taken the liberty 16 on Exhibit 1 of highlighting in yellow the topics 17 that I believe you are here to testify regarding 18 today. 19 Will you please take a moment and 20 confirm to me that you are prepared to testify as 21 to those topics in a manner that binds Metro. 22 A I am prepared for it. 23 Q Okay. Now, under Federal Rule of Civil 24 Procedure 30(b)(6), the witness who is produced 25 wouldn't necessarily have to have personal</p>	<p>13</p> <p>1 the addendum to the memorandum that was the final 2 conclusions of the board that was sent up to the 3 sheriff. 4 Q Okay. Have you spoken with anyone else, 5 other than your attorneys, regarding preparation 6 for your testimony or what you intend to testify 7 to here today? 8 A No. 9 Q Have you ever spoken to any of the 10 individual officers that have been sued? 11 A Spoken to them individually? Yes. 12 Q Okay. Was that as part of the Tactical 13 Review Board investigation? 14 A It was. And then just in passing, there 15 was conversations, but not -- no questions 16 regarding this, outside of the board, short of 17 just having seen them at work and talked to them. 18 I -- I don't know if I'm answering that correctly. 19 Q Well, I'll ask you some follow-up 20 questions here more specifically. 21 When is the last time you saw or spoke 22 to Defendant Kerry Kubla? 23 A Months, if not over a year. 24 Q Did you speak to him about the fact that 25 you might have to give deposition testimony --</p>

<p style="text-align: right;">14</p> <p>1 A No.</p> <p>2 Q -- in this matter?</p> <p>3 When is the last time you spoke to Brice</p> <p>4 Clements?</p> <p>5 A I do not remember. It has been over a</p> <p>6 year.</p> <p>7 Q When is the last time you spoke -- saw</p> <p>8 or spoke to Alex Gonzales?</p> <p>9 A At the board, maybe. I don't remember</p> <p>10 talking to him outside of that.</p> <p>11 Q When is the last time you saw or spoke</p> <p>12 to Russell Backman?</p> <p>13 A At least a year, if not more.</p> <p>14 Q When is the last time you saw or spoke</p> <p>15 to James Rothenburg?</p> <p>16 A At least over a year. I'm not --</p> <p>17 nothing is coming to memory.</p> <p>18 Q When is the last time you saw or spoke</p> <p>19 to James Bertuccini?</p> <p>20 A That would, again, be at least a year.</p> <p>21 Q When is the last time you saw or spoke</p> <p>22 to Melanie O'Daniel?</p> <p>23 A The last time would have been at this</p> <p>24 board. I don't think I've talked to her since.</p> <p>25 Q Okay. Lieutenant O'Daniel is now</p>	<p style="text-align: right;">16</p> <p>1 Metropolitan Police Department, which -- well,</p> <p>2 before we do that, though, I guess we may be using</p> <p>3 some acronyms in this case, and I just want to</p> <p>4 make sure, on the record, you know, I ask you</p> <p>5 about them and you indicate what they stand for.</p> <p>6 So TRB, what does that stand for?</p> <p>7 A That is the Tactical Review Board.</p> <p>8 Q And then CIRT, C-I-R-T, what does that</p> <p>9 stand for?</p> <p>10 A That is the Critical Incident Review</p> <p>11 Team.</p> <p>12 Q And then OIO, what does that stand for?</p> <p>13 A The officer -- Office of Internal</p> <p>14 Oversight.</p> <p>15 Q And then OIS?</p> <p>16 A That is an officer-involved shooting.</p> <p>17 Q Okay. And then FIT, F-I-T?</p> <p>18 A That's a Force Investigations Team.</p> <p>19 Q Now, let me ask you some -- some general</p> <p>20 questions here.</p> <p>21 What -- what is the association and</p> <p>22 interplay between TRB, CIRT, OIO, and FIT?</p> <p>23 A So they all comprise our critical</p> <p>24 incident review process. And our critical</p> <p>25 incident review process is how the Las Vegas</p>
<p style="text-align: right;">15</p> <p>1 retired; correct?</p> <p>2 A Correct.</p> <p>3 Q And to your knowledge, the other</p> <p>4 individual officers that we just discussed, are</p> <p>5 they still employed by Metro?</p> <p>6 A I know Sergeant John Scott is retired.</p> <p>7 I believe all of the other involved officers are</p> <p>8 still currently employed.</p> <p>9 Q All right. There's been some experts</p> <p>10 that have been disclosed in this litigation by</p> <p>11 both sides who have commented on what occurred and</p> <p>12 prepared reports.</p> <p>13 Have you reviewed those reports?</p> <p>14 A On the other experts?</p> <p>15 Q Yes, any -- any expert reports.</p> <p>16 A No, I have not.</p> <p>17 Q Okay. And there have been a lot of</p> <p>18 different depositions taken in this case already</p> <p>19 before yours, probably -- maybe ten, possibly</p> <p>20 more.</p> <p>21 Have you reviewed any of those</p> <p>22 deposition transcripts?</p> <p>23 A I have not.</p> <p>24 Q Okay. Let's talk a little bit about</p> <p>25 your background and history with the Las Vegas</p>	<p style="text-align: right;">17</p> <p>1 Metropolitan Police Department, along with the</p> <p>2 civilian community members, do thorough, in-depth</p> <p>3 administrative reviews of officer-involved</p> <p>4 shootings or deadly uses of force.</p> <p>5 And in there, there are two boards that</p> <p>6 are comprised of some of the same individuals, but</p> <p>7 with a little different functions. So if you want</p> <p>8 me to break that down, I would be happy to right</p> <p>9 now.</p> <p>10 Q Yeah, go ahead. And then I will have</p> <p>11 some other follow-up questions for you.</p> <p>12 A So the -- the boards are the</p> <p>13 Use-of-Force Review Board, and then the other</p> <p>14 board is the TRB, which is the Tactical Review</p> <p>15 Board.</p> <p>16 Now, both of these boards, a CIRT</p> <p>17 detective will be the one -- the lead case agent</p> <p>18 that will be presenting their findings of that</p> <p>19 incident and -- to the board to make their final</p> <p>20 decisions, which is done by a vote.</p> <p>21 The Use-of-Force Board is comprised</p> <p>22 of -- an assistant sheriff is the chair of the</p> <p>23 board, and that is somebody that is selected by</p> <p>24 the sheriff to serve in that function. On the</p> <p>25 Use-of-Force Board, that chair is not a voting</p>

<p style="text-align: right;">18</p> <p>1 member. They're just there to procedurally make 2 sure that everything is adhered to and oversee 3 that board. 4 The voting members of that board would 5 be the involved individual officers' bureau 6 commander, which is the captain rank; another 7 captain or higher on the department; and a peer 8 member of equal rank to that individual officer 9 that used force. 10 So if it was an officer, it would be a 11 peer officer. If it was a sergeant, it would have 12 to be a sergeant level officer. And they would be 13 the voting commission members on that board. 14 Additionally, there are four civilian members that 15 are on that board that are all voting members on 16 that board. 17 So they have four civilian members that 18 vote on that use of force versus the three 19 commissions members on that use of force. And 20 the -- that board, after hearing all of the facts 21 and reviewing the case, would then make their 22 determination by a vote on an administrative 23 approval of the officer-involved shooting, which 24 would mean that everything was fine with that 25 shooting; training and tactics -- or, I'm sorry,</p>	<p style="text-align: right;">20</p> <p>1 transitions to the Tactical Review Board. The 2 Tactical Review Board has a lot of the same 3 members. The only difference being the chair of 4 the board, meaning that assistant sheriff, is now 5 a voting member and still presiding over the 6 board. There is still the voting member that is 7 the captain of the involved officer that used 8 force. There is another captain or above that is 9 a voting member on there. 10 There is the peer member that is still 11 there as a voting member, and then there is a 12 tactical expert on those boards that usually comes 13 from ODB, which is the Organizational Development 14 Bureau, and that's just what we call our training 15 section. So it's usually a lieutenant or a 16 captain assigned to that bureau that can weigh in 17 on some of the training things. 18 The four civilian members that were 19 there for the Use-of-Force Board are still able to 20 be there as observers; however, they are not 21 voting members for the Tactical Review Board. 22 Q Thank you for that description. 23 Is every officer-involved shooting, by 24 definition, reviewed as part of the critical 25 incident review process?</p>
<p style="text-align: right;">19</p> <p>1 tactics and decision-making, where the use of 2 force was still within LVPD's policy of being 3 objectively reasonable, however, the officers' 4 decisions or tactics implemented may have 5 contributed to the outcome in a different way. 6 And the way I kind of explain that is if 7 an officer is searching somebody for weapons and 8 they recover a knife off this individual and they 9 put that knife on the hood of the patrol car 10 without securing the individual in handcuffs, and 11 the individual breaks free, grabs the knife, turns 12 around and tries to stab the officer and that 13 officer uses deadly force, it's still objectively 14 reasonable force; however, the tactics that he 15 implemented contributed to that. So that would be 16 an outcome that they could do. 17 There is policy training failure, where 18 the outcome might not have been the desired 19 result; however, there was a training gap or a 20 policy failure that was identified. And then the 21 final thing they can vote on would be 22 administrative disapproval, where the shooting was 23 not within LVPD policy or -- or training 24 standards. 25 Once that board is concluded, then it</p>	<p style="text-align: right;">21</p> <p>1 A It is. 2 Q And an officer-involved shooting, is the 3 definition of that any time an officer discharges 4 his weapon, or would that include times when a 5 member of the public discharges their weapon at 6 the officer but the officer doesn't shoot? 7 A For us, an officer-involved shooting 8 would be when the officer is discharging their 9 weapon. And the Force Investigative Team would be 10 the ones that are criminally investigating that 11 shooting. 12 They also investigate if deadly force is 13 used against one of our officers. So that 14 wouldn't be an officer-involved shooting, per se. 15 But if an officer was stabbed, shot, shot at, 16 someone tried to run them over, that would still 17 be investigated by that Force Investigative Team. 18 Q Okay. Now, are the -- is the critical 19 incident review process and these different boards 20 that are involved, are those mandated by Nevada or 21 federal law? 22 A Not that I'm aware of. 23 Q Okay. These are internal policies and 24 procedures to Metro? 25 A They are.</p>

<p style="text-align: right;">22</p> <p>1 Q Are they recommended by any national 2 organizations?</p> <p>3 A I'm -- I'm not aware if they're 4 recommended or not. I do know it's fairly common, 5 like I said, on some of these boards to have other 6 law enforcement agencies observe it so they can 7 try to take that back to their own agencies.</p> <p>8 And then I'm aware that when we went 9 through a collaborative reform process, there were 10 some recommendations made in the way that we can 11 look into things and our transparency. And I 12 believe that's what really bred this process for 13 us. But I don't -- I don't know about a national 14 standard for it.</p> <p>15 Q Was there any guide or model that Metro 16 looked to for the formation of its critical 17 incident review process?</p> <p>18 A I'm not aware, as when it was created, I 19 wasn't involved in that process.</p> <p>20 Q And that was actually going to be my 21 next question.</p> <p>22 Do you know when the current critical 23 incident review process was adopted?</p> <p>24 A I don't. I sat on the process as a 25 lieutenant when I was in ODB training and also as</p>	<p style="text-align: right;">24</p> <p>1 I'll guide you a little bit. If you look at the 2 first page of it, it looks like it was submitted 3 and approved by Detective Scott Mendoza and 4 Lieutenant Damon Young.</p> <p>5 Do you see that?</p> <p>6 A I do see that.</p> <p>7 Q Are those homicide detective and 8 lieutenant?</p> <p>9 A No, those are FIT investigative -- Force 10 Investigative Team detectives.</p> <p>11 Q Okay. So the Force Investigative Team 12 that's separate from the Use-of-Force Review Board 13 and the Tactical Review Board?</p> <p>14 A Yes.</p> <p>15 Q Do they share any members?</p> <p>16 A They do not.</p> <p>17 Q Is it intentional that they do not share 18 members?</p> <p>19 A It is.</p> <p>20 Q Similar questions to the CIRT team. Do 21 they share any members with any of the other teams 22 or boards reviewing an officer-involved shooting?</p> <p>23 A Can you say that one more time? I just 24 want to make sure I understand it.</p> <p>25 Q Yeah.</p>
<p style="text-align: right;">23</p> <p>1 a captain, and that spans back six years now. So 2 without giving you a date, it would be more than 3 five years, but I don't have an exact date for 4 you.</p> <p>5 Q Okay. And so the critical incident 6 review process consists of multiple boards. 7 There's the Use-of-Force Review Board and the 8 Tactical Review Board, but those share many 9 members?</p> <p>10 A Yes.</p> <p>11 Q Okay. And then the -- the FIT report 12 that's produced, which one of those boards 13 produces the FIT report?</p> <p>14 A So the boards do not have anything to do 15 with the FIT report. The boards are 16 administrative and internal reviews of what 17 occurred. The FIT report is a criminal report 18 done by the investigators investigating the crime 19 of the officer-involved shooting.</p> <p>20 Q And so in -- for this officer-involved 21 shooting of Mr. Williams, who prepared the FIT 22 report? And it's in front of you, if you care to 23 look. It's Exhibit 4.</p> <p>24 A If you'll give me a moment.</p> <p>25 Q Sure. I think it's -- you know, look,</p>	<p style="text-align: right;">25</p> <p>1 The CIRT, does that share any members 2 with any of the other boards or teams that 3 investigate officer-involved shootings?</p> <p>4 A No.</p> <p>5 Q And that is intentional by design?</p> <p>6 A It is.</p> <p>7 Q And is the idea that you -- you want 8 multiple people with potential angles or 9 viewpoints looking at an officer-involved 10 shooting?</p> <p>11 A Well, it's important, because there's 12 different rights afforded to an individual when 13 they are being looked at criminally versus 14 administratively. And in a criminal proceeding, a 15 subject being looked at criminally has a right to 16 the Fifth Amendment they can evoke where they 17 don't have to give a statement.</p> <p>18 On an administrative hearing with an 19 officer, we are able to compel that statement, but 20 that cannot be used against them criminally. So 21 there's two very deliberate lanes, not only for 22 the protection of the officers, but also where 23 they would end up on a criminal investigation with 24 the FIT team, that ultimately the facts are going 25 to be presented to the DA's office and then the</p>

<p style="text-align: right;">26</p> <p>1 determination would be made if any crime has 2 occurred or not.</p> <p>3 The administrative side, which would be 4 the CIRT side of the house, is going to be where 5 we can examine all of the tactics, procedures, the 6 policies, the management of the incident by 7 supervisors involved was up to standards with our 8 policy and if the best outcomes are reached or 9 other ways we can get better internally so we 10 don't repeat any mistakes that are made. Or if 11 there are better ways of doing things identified, 12 we can do that to make not only our officers 13 safer, but the community safer as well.</p> <p>14 Q Okay. So let me -- I just want to make 15 sure that I've understood you and state things in 16 kind of a summary manner.</p> <p>17 The Force Investigation Team is actually 18 a team that is investigating Metro's own officers 19 that were involved in the shooting to determine 20 whether they should be criminally charged; is that 21 correct?</p> <p>22 A Correct.</p> <p>23 Q All right. And then does the force -- 24 so the Force Investigation Team investigates 25 independently of the CIRT or TRB; correct?</p>	<p style="text-align: right;">28</p> <p>1 time of the trigger pull and if that officer was 2 in deadly force and utilized the threshold there, 3 being the subject had the ability, the 4 opportunity, the officers were in imminent 5 jeopardy, and preclusion did not allow them to 6 back up.</p> <p>7 So the -- to really boil it down simply, 8 the incident as a whole is looked at by the 9 Critical Incident Review Team. The trigger pull 10 and moment of deadly force is looked at criminally 11 by the Force Investigative Team.</p> <p>12 Q Why wouldn't the Force Investigation 13 Team include a broader picture, like the decisions 14 on what force to use; in other words, a CET entry 15 or how long the officers had to wait? Because 16 those are -- those are constitutional issues as 17 well; right?</p> <p>18 MR. ANDERSON: Objection. Form. 19 Answer. 20 THE WITNESS: I don't see it that way. 21 I see the -- you know, if you're doing a homicide 22 investigation and somebody, you know, provokes 23 somebody else, you're not looking at all of those 24 things. You're looking at the time the homicide 25 occurred.</p>
<p style="text-align: right;">27</p> <p>1 A Correct.</p> <p>2 Q All right. And is the main reason for 3 that because the officers have certain criminal 4 rights -- for example, the right to remain 5 silent -- in front of the FIT team that they do 6 not for the CIRT team and the TRB?</p> <p>7 A Yes.</p> <p>8 Q Okay. Now, you agree that the Force 9 Investigation Team concluded that none of the 10 officers should be criminally charged?</p> <p>11 A Correct.</p> <p>12 Q Do you agree, though, that what the 13 Force Investigation Team looked at was whether the 14 officers were justified in shooting once they 15 entered the apartment and they were confronted by 16 Mr. Williams, but they did not concern themselves 17 with the initial decision to use a CET entry and 18 the force that that required or the constitutional 19 knock-and-announce principles that plaintiff 20 alleges were violated?</p> <p>21 That was not part of the FIT team's 22 review, was it?</p> <p>23 A It was not.</p> <p>24 Q Okay. Why wasn't it?</p> <p>25 A Because the FIT team is looking at the</p>	<p style="text-align: right;">29</p> <p>1 And for us, we really boil it down to 2 that trigger pull when the officers utilized 3 deadly force, and all of those other things are 4 handled administratively.</p> <p>5 BY MR. BREEDEN:</p> <p>6 Q Can officers be criminally charged for 7 violating a member of the public's civil rights 8 resulting in their death?</p> <p>9 MR. ANDERSON: Objection. Form. 10 Answer. 11 THE WITNESS: Can you please say that 12 one more time?</p> <p>13 BY MR. BREEDEN:</p> <p>14 Q Yeah.</p> <p>15 The question is, you know, 16 hypothetically, can officers be charged if they -- 17 criminally if they are found to have violated a 18 person's civil rights such that it caused their 19 death?</p> <p>20 A They can.</p> <p>21 Q Okay. And is that under state -- Nevada 22 state law or is that under federal law or is that 23 under both?</p> <p>24 A It would be under both.</p> <p>25 Q Okay. So even though the FIT team says,</p>

<p>30</p> <p>1 "Well, at the moment of the trigger pulls, that 2 was justified," it didn't review what happened 3 leading up to those trigger pulls to see if 4 criminal charges were appropriate? 5 A Correct. 6 Q Okay. We kind of jumped around a little 7 bit, because I wanted to ask you about those -- 8 well, you know what, we may as well finish this up 9 too. So we've talked a little bit about TRB and 10 FIT and CIRT. 11 OIO, what is its role and how does -- 12 how does it factor into this process? 13 A The Office of Internal Oversight is part 14 of the -- the full name is Office of Internal 15 Oversight and Constitutional Policing where -- 16 where these sections are housed. And they have a 17 bureau captain over them and then separate section 18 lieutenants and some clerical staff that help with 19 all of the -- the paperwork. 20 Q Does OIO -- basically what it does, does 21 it just take the CIRT and the TRB reports and put 22 them in a format for public release? 23 A I -- I think that's an 24 oversimplification. There's more things that that 25 section is responsible for as well, as well as in</p>	<p>32</p> <p>1 A Right. 2 Q Okay. So let's back up a little bit 3 here and let's talk about you particularly, your 4 experience, work history, and education. 5 So first of all, how long have you lived 6 in Clark County, Nevada? 7 A My whole life. 8 Q Okay. Born and raised. 9 Congratulations. 10 How long have you worked for the 11 Las Vegas Metropolitan Police Department? 12 A I'm in my 27th year. 13 Q Okay. And when you were originally 14 hired, were you just hired as a patrol officer? 15 A So I was hired at 18 as a cadet, and 16 that's where you join the police department and 17 you are a civilian and you learn all of the 18 paperwork and all of the codes. And you are able 19 to do that until you turn 21, because in the state 20 of Nevada, you have to be 21 to be a police 21 officer. 22 And then when you turn 21, you go into 23 the police academy. So the first three years of 24 my employment was as a civilian doing paperwork 25 and learning the different forms and procedures.</p>
<p>31</p> <p>1 addition to the deadly uses of force, they review 2 all uses of force to see if there's any patterns 3 or trends, if there's -- for instance, if we have 4 an electronic control device, a TASER, that 5 there's several instances where the officer has 6 been trying to use it and it's not getting the 7 effective compliance that we need, they can look 8 at, is that a training issue? So there's other 9 things they do besides just compile the findings 10 for those two boards. 11 Q Do they actually conduct new or 12 additional investigation into officer-involved 13 shootings, or they -- or they just take the 14 investigation that the TRB and the CIRT has 15 already done? 16 A They take the investigation that CIRT 17 and FIT have already done. 18 Q Okay. So they don't do any independent 19 investigation? 20 A No. 21 Q Okay. But they do have the role of -- 22 you know, it's in their name -- of ensuring that 23 there's been constitutional policing. In other 24 words, that officers haven't violated the 25 constitution; right?</p>	<p>33</p> <p>1 And then at '21, I was -- in the year '21, I went 2 into the police academy and became a police 3 officer. 4 Upon graduating the police academy, I 5 was a patrol officer for a few years and then went 6 to the problem-solving unit, which is kind of a -- 7 detectives for the individual area commands. Then 8 I did four years in the gang crimes bureau, which 9 is an investigative assignment, before promoting 10 to sergeant. 11 As a sergeant, I was assigned to patrol 12 again for a year, then went back to the gang unit 13 for another two years before promoting to 14 lieutenant. 15 And then lieutenant, you -- I would -- I 16 went back to patrol -- kind of every time you 17 promote, you end up going back to patrol for a 18 year -- in the downtown area command. Then I was 19 an investigative administrative lieutenant for a 20 year in the southwest part of town. 21 Then I went to the Organizational 22 Development Bureau, which is training, and I was 23 the training lieutenant for a little over a year. 24 And then finally went back to the gang crimes 25 bureau as a lieutenant before promoting to</p>

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1 captain.
 2 And in 2019 -- the end of 2019, I
 3 promoted to captain, where I was a patrol area
 4 command captain in the southeast part of town for
 5 two years. And then my third year as a captain, I
 6 went back to the Organizational Development
 7 Bureau, which oversees training, which is the
 8 academy, driver's training, range, everything
 9 really comprising training on the department.
 10 And then from there, I was appointed to
 11 a deputy chief where I was a patrol deputy chief
 12 for two years. And then my current capacity --
 13 it's been about seven months -- I got moved over
 14 to the homeland security division as the deputy
 15 chief.
 16 Q When this officer-involved shooting
 17 happened in January of 2022, were you still a
 18 captain or were you a deputy chief at that time?
 19 A I was a captain.
 20 Q Okay. Have you ever worked homicide?
 21 A I have not.
 22 Q Have you ever worked SWAT?
 23 A I have not.
 24 Q Have you ever developed training
 25 policies or procedures for SWAT?

35

1 A I have not.
 2 Q Have you ever developed training
 3 policies or procedures just for general execution
 4 of search warrants?
 5 A I have not.
 6 Q And same question, specifically as to
 7 knock-and-announce principles.
 8 A As far as creating policy or training?
 9 Q Yes. Any policy, procedures, or
 10 training that you have developed for
 11 knock-and-announce procedures?
 12 A No, I have not.
 13 Q Okay. Have you ever worked for any
 14 other law enforcement organization?
 15 A I have not.
 16 Q In your time in law enforcement, have
 17 you ever had any lawsuits filed against you for
 18 violation of civil rights?
 19 A I have.
 20 Q Okay. How many?
 21 A One.
 22 Q Okay. So who filed that lawsuit?
 23 A It was early 2000s as a patrol officer,
 24 and it was a -- I had a use of force involving a
 25 TASER where the individual died of excited

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1 delirium. And from what I recall, there was a
 2 lawsuit. I was deposed and then issued summary
 3 judgment.
 4 Q In your favor?
 5 A In my favor.
 6 Q There was no settlement with the family
 7 of the person who died or the plaintiff?
 8 A Not that I'm aware of.
 9 Q Okay. Is that the only other time you
 10 have been deposed then?
 11 A It is.
 12 Q Okay. Do you remember the name of the
 13 individual who died?
 14 A William Lomax.
 15 Q Did you receive any discipline from the
 16 department as a result of Mr. Lomax's death?
 17 A I did not.
 18 Q Did you receive any retraining or
 19 anything of that nature?
 20 A I did not.
 21 Q You have never taken part in a SWAT CET
 22 entry then?
 23 A No.
 24 Q Just to -- to very generally discuss
 25 some of the structure at the Las Vegas

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1 Metropolitan Police Department, the head -- first
 2 of all, the department is considered its own
 3 political subdivision under Nevada law; correct?
 4 A I don't know about political
 5 subdivision, but I can tell you the structure. We
 6 have an elected sheriff. So if that would
 7 constitute political, because he is an elected
 8 political figure, the sheriff of Clark County.
 9 Q Okay. And then at the time this
 10 officer-involved shooting happened, that was Joe
 11 Lombardo, who is our current governor; right?
 12 A Correct.
 13 Q And then Sheriff McMahill was an
 14 undersheriff at that time -- now Sheriff McMahill?
 15 A He is now Sheriff McMahill. There -- he
 16 left the department for a little while. He
 17 retired and then came back to be the sheriff. I
 18 don't have the exact date that he left the
 19 department. That's something I would have to
 20 check on.
 21 Q Well, let's -- I guess I just want to
 22 talk more generally from the top down.
 23 So there's the sheriff?
 24 A Correct.
 25 Q And then below the sheriff, there are

<p style="text-align: right;">38</p> <p>1 undersheriffs?</p> <p>2 A There is one undersheriff. And then</p> <p>3 there are assistant sheriffs and then deputy</p> <p>4 chiefs. And those are the commission rank</p> <p>5 structure for the executive staff.</p> <p>6 Q For SWAT specifically, is the highest</p> <p>7 ranking officer within the department assigned</p> <p>8 only to SWAT, is that the SWAT captain?</p> <p>9 A Yes.</p> <p>10 Q And at the time of this OIS, that was</p> <p>11 Capital Cole; correct?</p> <p>12 A It was.</p> <p>13 Q And then the next level below Captain</p> <p>14 Cole would be SWAT lieutenant; correct?</p> <p>15 A Correct.</p> <p>16 Q And at this time, that was Lieutenant</p> <p>17 O'Daniel.</p> <p>18 A It was.</p> <p>19 Q Is there only one SWAT captain?</p> <p>20 A There is only one SWAT captain.</p> <p>21 Q Is there only one SWAT lieutenant?</p> <p>22 A There is.</p> <p>23 Q Everybody below lieutenant is either a</p> <p>24 SWAT officer or a team leader or assistant team</p> <p>25 leader; right?</p>	<p style="text-align: right;">40</p> <p>1 homeland security, we had, you know, a cyber truck</p> <p>2 bombing that happened here. That was a big CT</p> <p>3 investigation.</p> <p>4 I oversee our counterterrorism division,</p> <p>5 our special events section -- which you know we do</p> <p>6 quite a few events here, so I'm usually in the</p> <p>7 command structure working those events -- our</p> <p>8 special investigations sections, as well as our</p> <p>9 airport division.</p> <p>10 But the -- the deputy chief level is the</p> <p>11 high level oversight of those bureaus that then</p> <p>12 provides information to the assistant sheriffs,</p> <p>13 the undersheriff, and the sheriff on our weekly</p> <p>14 staff briefings.</p> <p>15 Q And you would agree with me that your</p> <p>16 current assignment -- assignment at homeland</p> <p>17 security -- that really doesn't relate or</p> <p>18 associate with SWAT and the officer-involved</p> <p>19 shooting in this particular case. It's a</p> <p>20 different department?</p> <p>21 A It is a different department.</p> <p>22 Q Okay. Other than sitting here today</p> <p>23 during this deposition, have you ever been</p> <p>24 represented in any other matter by Attorney Craig</p> <p>25 Anderson or the law firm that he's with, which is</p>
<p style="text-align: right;">39</p> <p>1 A Correct. And then for rank structures,</p> <p>2 the team leaders are sergeants. And then the</p> <p>3 assistant team leaders are officers that have been</p> <p>4 picked to be assistant team leaders.</p> <p>5 Q Okay.</p> <p>6 A But when you say team leader, it's</p> <p>7 the -- the rank is sergeant, which falls right</p> <p>8 underneath lieutenant.</p> <p>9 Q As a deputy chief, who is your immediate</p> <p>10 supervisor?</p> <p>11 A An assistant sheriff.</p> <p>12 Q Which one specifically?</p> <p>13 A Right now, it's Assistant Sheriff Dori</p> <p>14 Koren.</p> <p>15 Q And then as a deputy chief, what are</p> <p>16 your day-to-day job duties?</p> <p>17 A So a deputy chief oversees bureaus.</p> <p>18 Bureaus are led by captains. So every deputy</p> <p>19 chief has three to five bureaus under them where</p> <p>20 you're overseeing the high level things going on</p> <p>21 in that -- in that section.</p> <p>22 So for a patrol deputy chief, you're</p> <p>23 going to be getting briefed and briefing up on</p> <p>24 shootings, homicides, vehicle fatalities, large</p> <p>25 personnel issues. In my current assignment for</p>	<p style="text-align: right;">41</p> <p>1 Marquis Aurbach?</p> <p>2 A No.</p> <p>3 Q Okay. The next topic that you've been</p> <p>4 designated to testify regarding is topic number</p> <p>5 five, which deals with the Tactical Review Board,</p> <p>6 its composition, and its findings regarding</p> <p>7 Mr. William's officer-involved shooting.</p> <p>8 So marked for this deposition as</p> <p>9 Exhibit 2 is something which just says at the top</p> <p>10 left "LVMPD Interoffice Memorandum."</p> <p>11 Do you see that?</p> <p>12 A I do.</p> <p>13 Q Okay. Is this the memorandum with the</p> <p>14 findings of the Tactical Review Board?</p> <p>15 A This is. And there was an additional</p> <p>16 attachment to that as well that is Exhibit 3. But</p> <p>17 together those two comprise the -- the memorandum</p> <p>18 that was sent to the sheriff.</p> <p>19 Q Okay. And then the -- the sheriff in</p> <p>20 this case at that time was Sheriff McMahon?</p> <p>21 A Correct.</p> <p>22 Q And so the members of the Tactical</p> <p>23 Review Board, are they all listed there on the</p> <p>24 first page of Exhibit 2?</p> <p>25 A They are.</p>

<p style="text-align: right;">42</p> <p>1 Q Okay. I'm just going to read them off.</p> <p>2 Assistant Sheriff Walsh, Deputy Chief Prosser,</p> <p>3 Deputy Chief Larkin, Deputy Chief LaRoche,</p> <p>4 Captain Rader -- which is you -- Captain Holmes,</p> <p>5 Sergeant Celaya, Officer Jackson, and then there's</p> <p>6 a nonvoting secretary, Kelly Sullivan.</p> <p>7 Are those the only board members that</p> <p>8 took part in any consideration of this</p> <p>9 officer-involved shooting by the TRB?</p> <p>10 A Yes.</p> <p>11 Q Okay. And so at the time this</p> <p>12 memorandum was prepared, CIRT's report was</p> <p>13 available to the TRB; correct?</p> <p>14 A Yes.</p> <p>15 Q And is CRB's -- or, I'm sorry. Is TRB's</p> <p>16 real purpose just to review the CIRT report to</p> <p>17 determine what needs to be done at a tactical</p> <p>18 level?</p> <p>19 A What is -- well, their job is twofold.</p> <p>20 It's to review the CIRT report and all of the</p> <p>21 recommendations and then to sit through the</p> <p>22 presentation for the Tactical Review Board and</p> <p>23 then have the opportunity to ask questions to</p> <p>24 the -- the presenter and also ask any clarifying</p> <p>25 questions to the involved officers.</p>	<p style="text-align: right;">44</p> <p>1 the officer-involved shooting. When the -- the</p> <p>2 Critical Incident Review Team responds to the</p> <p>3 officer-involved shooting to start gathering all</p> <p>4 the facts. And the citizen review board members,</p> <p>5 while not part of the Tactical Review Board --</p> <p>6 they're part of the Use-of-Force Review Board --</p> <p>7 they are actually able to respond to the scene as</p> <p>8 well and get a scene walk-through so they can have</p> <p>9 a better frame of reference when that board</p> <p>10 happens.</p> <p>11 After the initial officer-involved</p> <p>12 shooting, they notice the involved employees that</p> <p>13 they're going to be bringing them in for</p> <p>14 interviews for the administrative process. And</p> <p>15 then over the next several weeks and months, they</p> <p>16 are conducting their interviews with those</p> <p>17 involved members, meeting with subject matter</p> <p>18 experts -- which we call SMEs -- and finding out</p> <p>19 if the -- what the officers are saying and what</p> <p>20 they're seeing are in line with the policies and</p> <p>21 the training that we have as a department. And</p> <p>22 that -- that's when it starts.</p> <p>23 And I forget the rest of your question.</p> <p>24 Q Well, yeah, and, you know, I have some</p> <p>25 follow-up questions here for you.</p>
<p style="text-align: right;">43</p> <p>1 Q So are you still on the Tactical Review</p> <p>2 Board?</p> <p>3 A No. I have been, but just</p> <p>4 situationally. If -- I have gone back if I've had</p> <p>5 involved employees that were involved in</p> <p>6 officer-involved shootings. But I was on the</p> <p>7 board this time because I was the captain over the</p> <p>8 Organizational Development Bureau.</p> <p>9 So the -- the board's composition</p> <p>10 changes based on what sections are involved in the</p> <p>11 officer-involved shooting and then what</p> <p>12 assignments different department members have.</p> <p>13 Q Well, how many officer-involved</p> <p>14 shootings have you reviewed as part of the TRB?</p> <p>15 A As a lieutenant and as a captain and</p> <p>16 then as a deputy chief, I would say at least ten.</p> <p>17 Q Have you ever been on CIRT?</p> <p>18 A No.</p> <p>19 Q So tell me a little bit about the TRB</p> <p>20 process.</p> <p>21 When does it start following an</p> <p>22 officer-involved shooting? What type of</p> <p>23 investigation occurs? And, you know, what is the</p> <p>24 ultimate purpose of TRB's review?</p> <p>25 A Well, the process starts on the day of</p>	<p style="text-align: right;">45</p> <p>1 But the ultimate goal or end of the TRB</p> <p>2 process is simply to send a memorandum to the</p> <p>3 sheriff for the sheriff's review and any further</p> <p>4 assessment that needs to be done?</p> <p>5 A So the ultimate goal is for us to make</p> <p>6 sure we're doing things the best way to keep our</p> <p>7 officers and the community safe. The ultimate</p> <p>8 goal is to be able to find if there's better ways</p> <p>9 to do things, if -- if mistakes were made, was</p> <p>10 there an -- an issue with the supervisory</p> <p>11 management of that incident?</p> <p>12 But it's all an administrative, thorough</p> <p>13 deep dive to see why everything occurred and if</p> <p>14 there's a better way to do that.</p> <p>15 Q For this TRB investigation, was it</p> <p>16 Assistant Sheriff Andrew Walsh who was in charge?</p> <p>17 A Yes, Assistant Sheriff Walsh at the time</p> <p>18 was the chair.</p> <p>19 Q And he actually signed this report, if</p> <p>20 you look at the last page of it, which is</p> <p>21 LVMPD 4859. He's the person who ultimately signed</p> <p>22 off on this memorandum; correct?</p> <p>23 A Correct.</p> <p>24 Q Now, is it Assistant Sheriff Walsh who</p> <p>25 is actually typing up this report, or did some</p>

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1 other member of the review board actually draft
 2 it, and then Assist Sheriff Walsh simply reviewed
 3 it and signed off?
 4 A I don't know -- I couldn't tell you who
 5 drafted it. I know that they have a secretary on
 6 the board taking notes, but I -- if I -- my
 7 assumption would be that the chair does not draft
 8 it. They review it and then approve it and sign
 9 it, but that would be a question for
 10 Sheriff Walsh.
 11 Q Okay. You mentioned that one of the
 12 things the TRB does is discuss the issues in the
 13 shooting with subject matter experts.
 14 In this case, were those the same
 15 subject matters experts that the CIRT team
 16 consulted?
 17 A Can you -- can you say that again? I'm
 18 getting a little confused on your -- the way you
 19 phrased that.
 20 Q Yeah.
 21 So if you look in the CIRT report, you
 22 know, it lists different subject matter experts.
 23 And then you mentioned that TRB also consults
 24 subject matter experts.
 25 Are those the same subject matter

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1 experts, or were they different?
 2 A So I think -- I mean, if I said it that
 3 way, that was a mischaracterization. The critical
 4 incident review process, the CIRT team gets with
 5 all of the subject matter experts when they're
 6 coming up with their findings on everything.
 7 Those findings are then presented -- the Tactical
 8 Review Board itself does not have -- it's really
 9 the same thing. It's the same subject matter
 10 experts that are providing the feedback to the
 11 CIRT investigation team.
 12 And you mentioned before -- I was the
 13 captain over our training section; however, never
 14 worked SWAT. So they would bring in subject
 15 matter experts that would have that knowledge base
 16 on SWAT, because those are special tactics. But
 17 that's all part of the critical incident review
 18 process on how they're coming up with their
 19 findings.
 20 Q In your opinion, did Metro take the
 21 investigation of this officer-involved shooting
 22 seriously?
 23 A Yes.
 24 Q In your opinion, did they do a thorough
 25 job?

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1 A In my opinion, yes, they did.
 2 Q The CIRT report, in particular, is 222
 3 pages long.
 4 Have you seen any longer CIRT reports in
 5 your career?
 6 A Not that I can recall.
 7 Q And the TRB memorandum itself is 34
 8 pages.
 9 Have you ever seen a longer TRB
 10 memorandum?
 11 A I do not recall seeing one longer.
 12 Q Okay. So when we look at this list here
 13 on the first page of the TRB memorandum, which is
 14 LVMPD 4826, which one of -- which ones of those
 15 board members -- I don't know if I said that
 16 right. Let me rephrase it.
 17 Which of these board members are
 18 permanent members on the TRB and which were
 19 assigned just for this officer-involved shooting?
 20 A The chair is a permanent member. The
 21 deputy chief of professional standards is a
 22 permanent member.
 23 Q Hold on. I'm sorry. Who is that
 24 specifically?
 25 A I'm sorry. At that time, it would have

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1 been Deputy Chief Jamie Prosser. So those two are
 2 permanent members.
 3 Deputy Chief Sasha Larkin was the deputy
 4 chief that SWAT was comprised in. So she was on
 5 the board because members in her chain were
 6 involved. Deputy Chief James LaRochelle was a
 7 board member because he was over the investigative
 8 services division, and one of the things looked at
 9 was homicides, so that involved his section. I
 10 was on this board because I was the captain over
 11 training.
 12 So those are -- those are the ones that
 13 get brought in because of the sections involved in
 14 the Tactical Review Board. But the -- the
 15 permanent positions would have been -- Assistant
 16 Sheriff Andrew Walsh is the chair, and then the
 17 professional standards deputy chief Jamie Prosser
 18 at the time.
 19 Q But why was Captain Holmes on this
 20 board?
 21 A Captain Holmes was on this board because
 22 he was the captain over homicide at the time of
 23 the incident.
 24 Q And I'm not sure how to pronounce this
 25 last name, but why was Sergeant Celaya on the

50

1 board?

2 A You know what, I do not -- I do not know

3 why -- what role Sergeant Celaya had.

4 Q And then the peer board member was

5 Officer Tremayne Jackson.

6 Do you see that?

7 A I do see that.

8 Q And so, what, was Officer Jackson

9 assigned to SWAT or some other department?

10 A No. So the way the peer board members

11 work is the -- there's officers that volunteer to

12 be peer board members at different ranks, and then

13 they go through some training on the composition

14 of the board. But it's really to get somebody at

15 that same level to vote on if what they saw was

16 consistent with the training and tactics. But I

17 couldn't tell you Officer Tremayne Jackson's

18 background.

19 Q Well, and the idea of the peer board

20 member is that it will be the same rank as the

21 officers being investigated; right?

22 A Yes.

23 Q And so actually the -- it would seem

24 that the highest ranking officer being

25 investigated -- well, frankly, if you look under

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1 there, it says "Officers Involved," and it

2 includes Captain Cole, Lieutenant O'Daniel.

3 But Sergeant Backman would have been the

4 highest ranking sergeant on the scene; right?

5 A Right.

6 Q And, in fact, he was in charge of the

7 announcements; right?

8 A Correct.

9 Q And he actually entered the apartment

10 and discharged his firearm too, didn't he?

11 A Yes.

12 Q Why wouldn't there be a sergeant peer

13 board member?

14 A That may be what Sergeant Celaya was

15 there for. It's not indicated in the report, and

16 I don't specifically remember if that was what

17 that sergeant's role was on the board or not.

18 Q So TRB, to get to the point where it

19 produces a 34-page memorandum of its findings or

20 opinions, how many times does it meet?

21 A With the subject matter experts?

22 Q Just all -- all board members.

23 A So the Tactical Review Board members,

24 the board comes together one time for -- for this

25 process. The case agents, the detectives of the

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1 Critical Incident Review Team have several

2 meetings in the months leading up to this board

3 with the subject matter experts.

4 As -- as you identified, you know, if

5 somebody wasn't in SWAT or the peer -- the board

6 member, you know, if they were in SWAT or not, the

7 subject matter experts are the ones that are

8 breaking down if the tactics and decision-making

9 done fits what their policies and procedures are.

10 So there's a lot of meetings that happen

11 before the board, but the board just meets for one

12 time on the day of the board.

13 Q And in this case, when I was reviewing

14 the documents produced by Metro, there's an audio

15 recording of a meeting that I think lasted six

16 hours or more.

17 Is that the recording of the one and

18 only TRB board meeting?

19 A I mean, without hearing it, I -- I know

20 we record the meetings, so if that's what it's

21 labeled, yes. But there's -- I mean, they record

22 interviews with officers as well. But the

23 administrative boards are recorded, both the use

24 of force board and the training -- or the Tactical

25 Review Board.

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1 Q And do you remember this board meeting

2 being a six hour or more meeting?

3 A It was several years ago. I remember it

4 being very long, but I don't remember the exact

5 time.

6 Q Okay. And do you remember whether

7 during that meeting, involved persons such as

8 Lieutenant O'Daniel appeared and -- and testified

9 in front of the board?

10 A I do remember Lieutenant O'Daniel being

11 there. As far as testifying to the board, I don't

12 remember if she was asked any questions or not.

13 And the -- every involved officer is given an

14 opportunity to speak if they want to add

15 something, but they don't always speak.

16 So as far as testimony given, I can't

17 tell you if she did or not that day. But I do

18 remember seeing her at the board.

19 Q If officers do choose to speak in front

20 of the board, is it under oath?

21 A It is under our -- it's not under oath

22 per court terms, but it's under oath for our --

23 our honesty and integrity policy, where if they

24 give any false statements, if they -- if they lie

25 about anything, that can be used for discipline up

<p style="text-align: right;">54</p> <p>1 to and including termination.</p> <p>2 Q When we look at the first page of this</p> <p>3 memorandum here, which is Exhibit 2, the officers</p> <p>4 involved there -- and it lists several, you know,</p> <p>5 officers -- sergeant, lieutenant, captain -- are</p> <p>6 there any you can recall specifically that</p> <p>7 declined to appear in front of the board?</p> <p>8 A I believe John Scott retired and</p> <p>9 declined to appear in front of the board.</p> <p>10 Q To your recollection, then, did all of</p> <p>11 the other officers involved appear?</p> <p>12 A As far as I can remember, yes.</p> <p>13 Q You mentioned earlier in your testimony</p> <p>14 that one of the things the TRB does is it votes.</p> <p>15 Do you recall saying that?</p> <p>16 A Yes.</p> <p>17 Q Are those votes recorded?</p> <p>18 A They are.</p> <p>19 Q And they would be on the audio recording</p> <p>20 of the meeting, or are they recorded in some other</p> <p>21 manner?</p> <p>22 A They are recorded and in writing. When</p> <p>23 the deliberation occurs -- after the case agent</p> <p>24 presents the case, questions are able to be asked</p> <p>25 to the involved officers. The officers are then</p>	<p style="text-align: right;">56</p> <p>1 majority vote. But I don't recall if they were</p> <p>2 all unanimous or not.</p> <p>3 Q Okay. So sitting here today, as we go</p> <p>4 through them one by one, you will not -- well, I</p> <p>5 will ask you as we go through whether you have a</p> <p>6 specific recollection.</p> <p>7 A Okay.</p> <p>8 Q Now, just another thing, too, about the</p> <p>9 TRB report. There are parts of it in red and then</p> <p>10 parts of it in blue.</p> <p>11 Why were different colors used?</p> <p>12 A So the red indicates the -- the negative</p> <p>13 conclusions, the blue were the positive</p> <p>14 conclusions.</p> <p>15 Q Okay. And let's see here. Turning to</p> <p>16 page three of the report, which is 4828, 29</p> <p>17 general conclusions from CIRT were reviewed by</p> <p>18 TRB; correct?</p> <p>19 A Correct.</p> <p>20 Q And of those 29, 22 were validated.</p> <p>21 That means that TRB agreed with CIRT and</p> <p>22 made no changes; correct?</p> <p>23 A Correct.</p> <p>24 Q Five were modified, and then two were</p> <p>25 overturned; correct?</p>
<p style="text-align: right;">55</p> <p>1 excused from the room and the recording is turned</p> <p>2 off, and then the board discusses everything.</p> <p>3 And then they make their recommendations</p> <p>4 on a sheet of paper, and they have three different</p> <p>5 options: They can validate the findings, they can</p> <p>6 modify the findings, or they can overturn those</p> <p>7 findings.</p> <p>8 Q And so part of the meeting is</p> <p>9 audio-recorded. But for the deliberation part or</p> <p>10 the voting part, the recording is turned off?</p> <p>11 A Yes.</p> <p>12 Q But there are written records on how</p> <p>13 specific board members voted on certain issues?</p> <p>14 A Yes.</p> <p>15 Q Okay. And if I wanted to get those,</p> <p>16 where would those be today? Who would have</p> <p>17 custody of them?</p> <p>18 A I'm not sure where those are housed.</p> <p>19 Q Okay. Do you recall any of the findings</p> <p>20 listed in this memorandum as being something other</p> <p>21 than unanimous by the board?</p> <p>22 A I don't recall if they were unanimous or</p> <p>23 not. I can tell you, though -- by looking at the</p> <p>24 report, I can tell you the -- the findings that --</p> <p>25 that passed or were overturned, because it is by a</p>	<p style="text-align: right;">57</p> <p>1 A Correct.</p> <p>2 Q Would you say that overwhelmingly, TRB</p> <p>3 agreed with the findings and conclusions of the</p> <p>4 CIRT report?</p> <p>5 A Yes.</p> <p>6 Q On page two of the report, 4827, I found</p> <p>7 something unusual here. If you look, the -- one,</p> <p>8 two -- third paragraph down, the last sentence, it</p> <p>9 refers -- it refers to the underlying homicide as</p> <p>10 being a, quote, gang-related shooting that</p> <p>11 occurred in December of 2021, end quote.</p> <p>12 That homicide has never been solved;</p> <p>13 correct?</p> <p>14 A Well, there's the -- it references a</p> <p>15 homicide and then it references a gang shooting.</p> <p>16 I believe that homicide has recently been solved.</p> <p>17 I'm not sure about the gang shooting that -- are</p> <p>18 we talking about at the time of the board or to</p> <p>19 this day right now?</p> <p>20 Q Well, let's -- let's talk about right</p> <p>21 now. So I see here -- you know, thank you for</p> <p>22 clarifying a little bit, because I may have</p> <p>23 misunderstood this section. But let's go back,</p> <p>24 and we'll talk about the underlying homicide.</p> <p>25 And that homicide occurred at the Sam's</p>

<p>58</p> <p>1 Town Hotel and casino; correct?</p> <p>2 A I believe it was across the street, if</p> <p>3 memory serves me right. But in that -- in that</p> <p>4 area, yes.</p> <p>5 Q You believe that homicide was recently</p> <p>6 solved?</p> <p>7 A I believe so.</p> <p>8 Q Has there been a conviction?</p> <p>9 A I don't know.</p> <p>10 Q Has there been an arrest?</p> <p>11 A I know an arrest warrant was issued, and</p> <p>12 I thought that an individual was picked up, but</p> <p>13 I -- I couldn't tell you for certain.</p> <p>14 Q When do you believe that arrest warrant</p> <p>15 was issued?</p> <p>16 A Recently, but I couldn't tell you if</p> <p>17 that was a month or three months.</p> <p>18 Q Was the person arrested any of the</p> <p>19 suspects who were being investigated when the</p> <p>20 search warrant that resulted in this</p> <p>21 officer-involved shooting occurred?</p> <p>22 A I'm not sure.</p> <p>23 Q Okay. Do you know if it was Wattsel</p> <p>24 Rembert?</p> <p>25 A I do not.</p>	<p>60</p> <p>1 Let's take a 15-minute break. Perfect.</p> <p>2 THE VIDEOGRAPHER: Going off the</p> <p>3 record at 10:15 a.m.</p> <p>4 (Whereupon, a recess was taken.)</p> <p>5 THE VIDEOGRAPHER: We're back on the</p> <p>6 record. The time is 10:26 a.m.</p> <p>7 BY MR. BREEDEN:</p> <p>8 Q Okay. Deputy Chief Rader, we took a</p> <p>9 short break. We're back on the record now, and</p> <p>10 we're getting ready to look over the TRB</p> <p>11 memorandum or report.</p> <p>12 I just want to go back, though. You</p> <p>13 know, this memorandum is sent to the sheriff, who</p> <p>14 at that time was Kevin McMahill.</p> <p>15 And does the sheriff formally respond to</p> <p>16 this in any way?</p> <p>17 A The -- I don't know if the sheriff</p> <p>18 formally responds. The sheriff does the -- he</p> <p>19 gets the report, and then we put out our key</p> <p>20 findings -- for transparency, that's another one</p> <p>21 of your exhibits, for reference -- on the things</p> <p>22 that we've identified and could have done better.</p> <p>23 I know that part comes out. But I don't -- I</p> <p>24 don't understand -- or I'm not aware of a formal</p> <p>25 response, I guess.</p>
<p>59</p> <p>1 Q Do you know if it was Corvell Fisher?</p> <p>2 A I do not.</p> <p>3 Q Do you know if it was Arial Soto?</p> <p>4 A I do not.</p> <p>5 Q And is it your testimony that you just</p> <p>6 do not know one way or the other, or you're saying</p> <p>7 those -- those names, it was not those names?</p> <p>8 A It could be those names. I do not know</p> <p>9 one way or the other.</p> <p>10 Q And so you're saying the gang-related</p> <p>11 shooting is a shooting separate from the homicide?</p> <p>12 A My recollection is, yes, it was a</p> <p>13 separate thing from the homicide -- or a separate</p> <p>14 incident.</p> <p>15 Q For the gang-related shooting, to your</p> <p>16 knowledge, has anyone been arrested or convicted?</p> <p>17 A I'm not aware of either way.</p> <p>18 Q I would like to go through the TRB</p> <p>19 report and address certain conclusions and then</p> <p>20 how they were validated, modified, or overturned</p> <p>21 by TRB.</p> <p>22 A Okay. Am I able to take a quick</p> <p>23 bathroom break?</p> <p>24 MR. BREEDEN: Oh, yeah. Let's --</p> <p>25 we've been going an hour and 15 minutes or so.</p>	<p>61</p> <p>1 Q Okay. So, in other words, there's</p> <p>2 nothing Sheriff McMahill goes through and says</p> <p>3 agree, disagree? There's nothing like that?</p> <p>4 A Well, he's the sheriff, so if he wanted</p> <p>5 to do something, he could. I'm just not aware of</p> <p>6 what happens when that memo does get to him.</p> <p>7 Q Okay. Also here on Exhibit 2, the front</p> <p>8 page to the right of Sheriff McMahill's name,</p> <p>9 there's some handwriting there, and it looks like</p> <p>10 maybe K3448M, possibly.</p> <p>11 Do you know what that indicates?</p> <p>12 A So that -- for memos, that's -- when</p> <p>13 somebody gets the memo, that's their sign-off on</p> <p>14 that memo. So there is no signature line for him,</p> <p>15 because it was done up through Assistant Sheriff,</p> <p>16 at the time, Walsh as the chair of the board.</p> <p>17 And then that would be the sheriff</p> <p>18 putting his initial and P number, which is his</p> <p>19 personnel number, that -- that he has that memo.</p> <p>20 Q Okay. So it's at least verified that</p> <p>21 Sheriff McMahill saw this?</p> <p>22 A Yes.</p> <p>23 Q Okay. Let's talk about -- I want to</p> <p>24 start by talking about the two conclusions of CIRT</p> <p>25 which TRB overturned. So the first one, as I went</p>

<p style="text-align: right;">62</p> <p>1 through this report, was Conclusion 5, which 2 begins on page six of the report and -- but most 3 of it is on page seven. It's very brief -- very 4 brief.</p> <p>5 So in the TRB report, there's a little 6 strike-through of the conclusion, and that's to 7 indicate that it was overturned or -- or modified 8 by TRB; correct?</p> <p>9 A Correct.</p> <p>10 Q And so the CIRT conclusion was that 11 homicide's investigation into the underlying 12 murder up to the officer-involved shooting was 13 conducted appropriately and within Metro's 14 standards. And that was overturned by TRB.</p> <p>15 Why?</p> <p>16 A So on this particular issue, we had a 17 policy for the case management and utilizing the 18 case management system, which is P1, that we were 19 under the impression all of our officers were 20 utilizing that.</p> <p>21 Well, homicide section was in 22 consultation with the district attorney's office, 23 and their relationship would utilize the P1 system 24 once the case was -- was finished, but while 25 working the case, would do a running OR and then a</p>	<p style="text-align: right;">64</p> <p>1 that was also discussed on -- on the search 2 warrants for the SWAT service, where the entire 3 chain of the homicide section reviews that, as 4 well as the entire chain of the homicide section 5 reviews that before the SWAT team signs off or 6 goes and executes that search warrant.</p> <p>7 The homicide investigation is really 8 focused solely on the -- really the who done it, 9 to put it in simple terms, of that investigation.</p> <p>10 The apprehension phase is -- in this component was 11 going to be completed by the SWAT section.</p> <p>12 But SWAT also doesn't have the -- the 13 manpower or some of the equipment to do lengthy 14 surveillances, so it couldn't just be put on one 15 or the other. Some of that responsibility would 16 be on -- a cross section of both.</p> <p>17 Q Okay. So what you're really saying is, 18 hey, some of these issues that Metro identified, 19 they're kind of mixed among the departments. But 20 the -- the reason why we overturned this 21 particular finding, number five -- or Conclusion 22 Number 5 was because homicide was not using the P1 23 system as they should have?</p> <p>24 A I believe that's why that one was 25 overturned. I -- I remember that being a</p>
<p style="text-align: right;">63</p> <p>1 very comprehensive final OR.</p> <p>2 And the DA's liked that for court, 3 because it was -- it allowed for more thorough 4 documentation and information for the homicide 5 report.</p> <p>6 So that was one of those things where 7 they were doing their own thing that wasn't within 8 policy, but it was at the request of the deputy 9 district attorney's office and in -- with approval 10 of the leadership in homicide.</p> <p>11 Q And was failure of homicide to use the 12 P1 system the only reason why that conclusion was 13 overturned?</p> <p>14 A To my knowledge, yes.</p> <p>15 Q Now, I can probably go through this 16 homicide investigation and pick out a dozen or 17 more criticisms that I have of it. But, for 18 example, one criticism would be that there seems 19 to have been a failure of intelligence, meaning a 20 failure to know who was actually inside the 21 apartment at the time the warrant was served.</p> <p>22 But do you consider that to be a 23 homicide issue or a SWAT issue?</p> <p>24 A Well, that's something where the two can 25 kind of cross. And that was one of the things</p>	<p style="text-align: right;">65</p> <p>1 discussion point on the case management component 2 of that.</p> <p>3 Q Do you remember whether the decision to 4 overturn Conclusion Number 5 was unanimous?</p> <p>5 A I do not.</p> <p>6 Q The next one that was overturned is 7 Issue Number 12, which begins on page 14, 8 LVMPD4839. Now, this conclusion refers to the 9 fact that as officers approached the front door of 10 Apartment 1125 to serve the search warrant, they 11 encountered a reinforced brass wrap on the door. 12 And that creates problems, because their plan is 13 to use a battering device on the door, and the 14 reinforced brass wrap is going to impair that. 15 And this was investigated by CIRT to determine 16 whether a tactical should have been called.</p> <p>17 And CIRT ultimately concluded that 18 whether that tactical should have been called at 19 that time was a judgment call to be made by SWAT. 20 And CIRT determined that there was a lack of 21 clarity in the lesson plan as to when a tactical 22 call should be utilized. That conclusion was 23 overturned by TRB.</p> <p>24 Why was that done?</p> <p>25 A So one of the things that we can never</p>

<p style="text-align: right;">66</p> <p>1 do is really have a policy that covers everything. 2 There has to be -- there really has to be room in 3 there, and what we truly operate off of all of our 4 tactics is a reasonableness standard for officers. 5 And if you say there's a brass wrap on 6 the door, you can't -- or what we didn't want to 7 do is limit the options available to that team, 8 because there still might be a reason to not go 9 tactical and try to breach that door. 10 So the discussion I remember on that 11 point was that while it's easy for -- sitting 12 behind a desk for months after the incident to try 13 to make that determination, when you have a team 14 of officers moving up to a dynamic situation, 15 something that could be a -- a deadly force 16 situation and there's all of the elements out 17 there -- I believe there was a gas station, 18 occupied apartments surrounding this -- you can't 19 overpolice the ability for that team to make 20 that judgment call. And the -- to my 21 recollection, that's why that one was overturned. 22 Q So there was sort of two elements there. 23 One is the issue of whether a tactical should have 24 been called at all. 25 And did TRB believe that a tactical</p>	<p style="text-align: right;">68</p> <p>1 was the conclusion on that issue? 2 A That, no, the brass wrap in itself would 3 not make you call a tactical or -- or tell you to 4 press forward. It would be a judgment call. 5 Q Now, you would agree that Metro should 6 have policies that are clear to officers; correct? 7 A I believe -- and in my 27 years of 8 experience, you can give pillars to guide 9 behind -- or to guide you by, and you can't 10 possibly predict every potential scenario, because 11 policing would be very easy if we could. 12 And the officers have to get the 13 training the best way that we can train them, and 14 they have to make those connections by themselves. 15 Because I don't know if this SWAT officer had 16 encountered brass wraps before and there were no 17 issues. There was a myriad of things that could 18 have played into the decision for them to not call 19 tactical. 20 So, yes, it is very important to have 21 policies, but we'll never be able to police 22 everything just because we're dealing with the 23 unknown and human nature. That also highlights 24 the importance of having the Critical Incident 25 Review Team and the Tactical Review Board so we</p>
<p style="text-align: right;">67</p> <p>1 should have been called at that point when they 2 encountered the brass wrap? 3 A The discussion I remember having is 4 if -- particularly with this complex, one of the 5 issues in the deliberation was the surround and 6 call out or going up for the -- the controlled 7 entry, is that there was a lot of exposure to the 8 team members just because of the configuration of 9 the apartment. It butted up against -- there was 10 kind of a weird angle with the wall, so you 11 couldn't really get a BearCat or any of the armor 12 in there. 13 And that was, again, one of those things 14 where you have to allow the boots on the ground, 15 the people that have eyes on that section to be 16 able to make that call, and you can't overpolice 17 that for fear of inaction when action needs to 18 happen, which could result in officers or civilian 19 members getting killed. 20 Q Okay. Well, I understand -- you know, 21 I'm going to talk about the policy issue here in a 22 second. 23 But on the -- sort of the threshold 24 issue, does TRB think a tactical should have been 25 called when the brass wrap was encountered? What</p>	<p style="text-align: right;">69</p> <p>1 can learn about these things and try to have -- 2 identify if -- have we been lucky on other 3 incidents, or have we been good and are there 4 better ways to do it? 5 So I agree with your statement that it 6 is important to have clear policies, but I also do 7 not want to overgeneralize that you could have 8 policies for every single thing. 9 Q So Metro agrees, generally speaking, 10 that the policies -- you know, if you have a 11 choice between multiple ways of wording a policy, 12 the policy that is the clearest for the officers 13 is generally the best choice. 14 But Metro's position on this particular 15 issue was it was just too difficult to draft a new 16 policy that would encompass all issues? 17 A Not -- I'm not -- I'm not sure what -- 18 what you mean by that. 19 We give some latitude to the officers 20 having to make split-second decisions in the 21 moment. And when you have a team of operators or 22 SWAT folks or officers going up to an unknown 23 threat area and you have to make that call, 24 there's so many different things that could affect 25 it.</p>

<p>70</p> <p>1 And, you know, you could have a child 2 playing outside which would change it. You could 3 hear something inside that would change it. 4 So we thought -- my recollection is that 5 we were not going to put in there, "If this 6 happens, you'll do this; if this happens, you'll 7 do that." It will just be handled in SWAT 8 training, and they would look at this as a case 9 review and -- and have those discussions when 10 training. 11 Q Did TRB, on behalf of Metro, actually 12 consider any specific amended language for that 13 policy? 14 A Not that I recall. 15 Q All right. When Metro, through the TRB, 16 investigated this officer-involved shooting, it 17 found there had been multiple failures of policy 18 and training; correct? 19 A There were some, yes. 20 Q I would like to talk about Conclusion 21 Number 2, which begins on page three, LVMPD4828. 22 A And you said 2? Conclusion 2? 23 Q Yes, which begins on page three. 24 A Okay. 25 Q Now, this is the conclusion that speaks</p>	<p>72</p> <p>1 bearing one way or the other, because that's not 2 something that existed then or exists now, where a 3 tactical unit would go review the investigative 4 case notes in the P1 system. 5 Q So based on Metro's policies, which 6 continue to this day, SWAT, if they wanted to look 7 more in-depth into the underlying investigation -- 8 which in this was a homicide -- they would be 9 unable to. They would only have the information 10 that homicide put on the IAP? 11 A Yeah, the information in the homicide 12 IAP and the search warrant. And that's why 13 there's a dual approval process now, where the 14 homicide chain of command up to the captain signs 15 off on that, as well the SWAT captain. And then 16 if there's questions or -- or concerns, then those 17 sections talk to each other. 18 And if SWAT did have a question about 19 something, they could discuss that. But the 20 tactical section would not have access to the case 21 notes. 22 Q Metro, through TRB, did conclude that 23 this had been a failure of tactics, training, and 24 policy; correct? 25 A Yes. This was a -- a policy failure,</p>
<p>71</p> <p>1 about homicide's failure to use the P1 notes, 2 which stands for Premier 1; correct? 3 A Correct. 4 Q And that was validated by Metro through 5 the TRB board; correct? 6 A Correct. 7 Q Did Metro believe that that made any 8 difference ultimately into how this search warrant 9 was planned or executed? 10 A No. This was one of those things that 11 came up with the review. And it was a policy 12 failure, but I don't remember us saying it had a 13 direct correlation to the officer-involved 14 shooting. 15 Q And so if homicide isn't using the P1 16 case notes and SWAT, when they're reviewing the 17 IAP or planning the SWAT operation, wants to 18 review the P1 case notes, there simply aren't any 19 to review; correct? 20 A Well, so the case notes are specific 21 just for that section, so SWAT would not have 22 access to review those case notes. The pertinent 23 information would be put in the SWAT IAP, and then 24 the search warrant application and affidavit. 25 So that, I don't believe, would have any</p>	<p>73</p> <p>1 because policy stated all detective investigative 2 units would be utilizing P1, and homicide was not. 3 Q And do you recall whether this was a 4 unanimous conclusion by TRB? 5 A I do not recall. 6 Q And what, if any, response by the 7 sheriff or anyone else at Metro occurred as a 8 result of this finding? 9 A So further discussions were had with the 10 district attorney's office on the need to have the 11 homicide case files done differently than, let's 12 say, a -- a car burglary, just because of the 13 complexities of that case and all of the forensics 14 and multiple interviews that would have to happen. 15 And they elected to policize but keep the process 16 that they were doing. 17 So update it so they were not out of 18 policy and homicide can still be in compliance 19 with what the prosecuting district attorney would 20 want for their -- for their attorneys going 21 forward on that case and in a way that they can 22 still accomplish the same things outside of P1 23 with their rolling officer's reports on all of the 24 investigative steps. 25 Q So what happened was Metro looked at</p>

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1 this and they said, well, let's just change our
 2 policy for homicide so they don't have to use P1?
 3 A Well, no, it was let's see if there's a
 4 reason for it. And that's why we discussed with
 5 the district attorney's office on why there is a
 6 need and could that still have been facilitated by
 7 going through P1. Which the joint consensus was,
 8 no, that actually was a better way of doing things
 9 and that's why they were doing it that way.
 10 Q Moving on to Conclusion Number 4, that
 11 was validated by Metro through the TRB; correct?
 12 A Correct.
 13 Q And I'm paraphrasing, and if you
 14 disagree with this, tell me. But basically this
 15 conclusion was that even though the search warrant
 16 that resulted in this officer-involved shooting
 17 was approved by a judge, the search warrant was
 18 not to Metro's internal policies and standards,
 19 because the description of what was to be sought
 20 in the search warrant was too vague in some
 21 instances; correct?
 22 A Correct.
 23 Q Okay. For example, clothing was sought,
 24 but that wasn't limited to, you know, clothing
 25 seen by the suspects or worn by the suspects or

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1 known to be in possession of the suspects. And
 2 then cellular phones were sought, but virtually
 3 everybody has a cellular phone, and there was no
 4 cellular phone specifically used. Like, a
 5 cellular phone wasn't the murder weapon in the
 6 underlying homicide.
 7 And these were failures of policies and
 8 procedures in how the search warrants were filled
 9 out; correct?
 10 A Correct.
 11 Q All right. And so as far as Metro's
 12 internal policies and procedures are concerned,
 13 the search warrant that led to Mr. Williams'
 14 shooting never should have even been submitted to
 15 a judge for those reasons?
 16 MR. ANDERSON: Objection. Form.
 17 Go ahead.
 18 THE WITNESS: No. What we're saying,
 19 almost like the -- we just talked about with the
 20 homicide P1, the homicide P1 mistakes that
 21 occurred had no bearing on the end result of the
 22 officer-involved shooting. This was another one
 23 of those things where, how can we get better?
 24 The warrant was still legal and
 25 lawful, having been signed by a judge. But we

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1 identified that, for best practices, we needed to
 2 be adhering to the policy of specifically listing
 3 those items to be sought and seized. So the --
 4 the department didn't say it was a bad search
 5 warrant, it should have never been served. It
 6 was, it could have been written with more
 7 specifics on the items sought to be seized.
 8 BY MR. BREEDEN:
 9 Q Well, isn't Metro just saying, look,
 10 this warrant was not properly filled out, but a
 11 judge didn't catch that?
 12 MR. ANDERSON: Objection. Form.
 13 THE WITNESS: So what I will say is we
 14 hold ourselves to a higher standard in most times
 15 than the -- the legal standard that the law
 16 allows. And that's because policies can change
 17 quicker than laws can change, and we can control
 18 our policies, where we don't obviously create the
 19 law.
 20 So when we are able to come up with
 21 best practices on how to do things -- and this is
 22 just one of those areas that we identified where
 23 the better practice would have been to be more
 24 specific than what he listed, and that's why the
 25 board upheld that finding.

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1 BY MR. BREEDEN:
 2 Q Was that a unanimous finding?
 3 A I do not recall.
 4 Q Do you recall what the response from the
 5 sheriff or anyone else at Metro was to this
 6 conclusion?
 7 A I do remember we pushed out training for
 8 all of the department. And in the search warrant
 9 class and the refresher classes, it is a point of
 10 emphasis.
 11 Q I would like to talk next about
 12 Conclusion Number 6. This begins on page seven,
 13 LVMPD4832.
 14 Were there numerous problems that were
 15 found with the IAP and how it was completed?
 16 A Yes.
 17 Q And just for the record, IAP, what does
 18 that stand for?
 19 A An IAP is an incident action plan.
 20 Q And an IAP is required to be filled out
 21 by SWAT for every SWAT search warrant execution?
 22 A So the incident action plan is filled
 23 out by the requesting bureau, and then there's a
 24 portion that SWAT will then fill out as well. So
 25 it's done in conjunction, but it originates with,

<p style="text-align: right;">78</p> <p>1 in this instance, the homicide section.</p> <p>2 Q Do you agree with me that at least the</p> <p>3 portion of the IAP that discusses whether a CET or</p> <p>4 a SACO should be used, that that should be in</p> <p>5 SWAT's judgment?</p> <p>6 A Yes.</p> <p>7 Q Homicide should not be dictating to SWAT</p> <p>8 whether a CET or a SACO is used; correct?</p> <p>9 A Agreed. I would agree with that.</p> <p>10 Q So this conclusion was validated by</p> <p>11 Metro; correct?</p> <p>12 A Correct.</p> <p>13 And then if -- if I may, so the -- the</p> <p>14 reason SWAT gets the request and then the captain</p> <p>15 has to approve it is for that very fact that you</p> <p>16 mentioned, so a -- I guess you could call it</p> <p>17 competing interests.</p> <p>18 A narcotics detective might want a SWAT</p> <p>19 team to go in there very quickly to recover</p> <p>20 narcotics before they could be flushed or</p> <p>21 discarded, but there could be an undue risk to the</p> <p>22 SWAT team in that instance. So while the</p> <p>23 investigating -- or originating entity, in this</p> <p>24 case being homicide, might want a certain tactic</p> <p>25 to be used, it's the SWAT team that's going to</p>	<p style="text-align: right;">80</p> <p>1 needed at the captain level with some COVID</p> <p>2 exposures, where people were not able to</p> <p>3 physically be at work because of -- because of</p> <p>4 contracting COVID.</p> <p>5 So the IAP got sent to the SWAT</p> <p>6 Captain Cole and kicked back on three separate</p> <p>7 occasions where he wanted the additional</p> <p>8 information. The initial signatures were</p> <p>9 obtained, but there was -- I might have the page</p> <p>10 numbers wrong, but if it was initially a 14-page</p> <p>11 form, that turned into a 17-page form. You know,</p> <p>12 there could be two or three additional forms that</p> <p>13 needed to be filled out where they were then</p> <p>14 inserted and given back to Captain Cole.</p> <p>15 So it still had signatures, but it had</p> <p>16 the additional information, which led to some</p> <p>17 misaligned page numbers on there. And that's why</p> <p>18 there was confusion and a policy failure on there.</p> <p>19 And what should have happened is that</p> <p>20 form was approved and replaced the old department</p> <p>21 form so everybody would only be using that one</p> <p>22 instead of a -- kind of a blended approach that</p> <p>23 happened in this instance.</p> <p>24 Q The IAP for this search warrant called</p> <p>25 for a CET entry, didn't it?</p>
<p style="text-align: right;">79</p> <p>1 make that determination on how they're going to</p> <p>2 proceed with that tactic.</p> <p>3 Q And ultimately Metro determined, through</p> <p>4 the TRB, that there had been a policy and training</p> <p>5 failure regarding use of the IAPs and how they</p> <p>6 were completed; correct?</p> <p>7 A Correct.</p> <p>8 Q And so why don't you go back and, just</p> <p>9 in your own words, summarize for me the ways in</p> <p>10 which the IAP that led to this -- how this search</p> <p>11 warrant was executed were policy and training</p> <p>12 failures.</p> <p>13 A So there was a standardized incident</p> <p>14 action plan that was used, an LVMPD form, and the</p> <p>15 SWAT captain wanted some additional things in the</p> <p>16 IAP. So he had pushed out an updated form to some</p> <p>17 of the investigative sections that used them a lot</p> <p>18 to start using.</p> <p>19 When the initial form was sent over,</p> <p>20 the -- the wrong form -- or the older form was</p> <p>21 used; however, that was still the official LVMPD</p> <p>22 form. You have the SWAT captain that wanted some</p> <p>23 additional information and wanted the additional</p> <p>24 form that was used.</p> <p>25 This was also compounded by signatures</p>	<p style="text-align: right;">81</p> <p>1 A My recollection is that that was</p> <p>2 requested and that was what the SWAT team, after</p> <p>3 recon, elected to do.</p> <p>4 Q It was requested by homicide and</p> <p>5 approved by SWAT; correct?</p> <p>6 A If I remember correctly, yes.</p> <p>7 Q And that IAP was rejected three</p> <p>8 different times before a fourth IAP was approved;</p> <p>9 correct?</p> <p>10 A Correct.</p> <p>11 Q One of the issues with the ultimate</p> <p>12 IAP -- or I should say the different versions of</p> <p>13 the IAP is that they differed in whether there was</p> <p>14 an exigent need to serve this warrant; correct?</p> <p>15 A Correct.</p> <p>16 Q Do you agree with me that whether the</p> <p>17 warrant should be served in an exigent manner</p> <p>18 would affect whether a CET or a SACO should be</p> <p>19 selected?</p> <p>20 A Can you say that one more time?</p> <p>21 Q Yes.</p> <p>22 Whether this is exigent service, would</p> <p>23 that play any role in the determination of whether</p> <p>24 CET or SACO techniques should be used?</p> <p>25 A Yes, that would be a factor.</p>

<p style="text-align: right;">82</p> <p>1 Q And in every iteration of the IAP except</p> <p>2 for the last one, the exigent box was checked no;</p> <p>3 correct?</p> <p>4 A Correct.</p> <p>5 Q But then in the final one, somebody</p> <p>6 said, "Well, let's check that box yes," and then</p> <p>7 they gave a little generic description that says</p> <p>8 there's a threat to the community by having these</p> <p>9 individuals remain out of custody.</p> <p>10 Do you believe that was to Metro's</p> <p>11 policies, standards, and training, the way the</p> <p>12 exigency box was checked?</p> <p>13 A I don't dispute that they believed there</p> <p>14 was a threat to the community, but I -- I do agree</p> <p>15 that it wasn't to our standards by utilizing the</p> <p>16 two different forms and not having another</p> <p>17 signature, because a captain was out with COVID.</p> <p>18 Q Well, just the generic description here</p> <p>19 that there's a threat to the community by having</p> <p>20 these individuals remain out of custody, I mean,</p> <p>21 that could be said for almost any sort of crime or</p> <p>22 search warrant; correct?</p> <p>23 MR. ANDERSON: Objection. Form.</p> <p>24 THE WITNESS: So it may. But one of</p> <p>25 the other considerations for the SWAT team is, how</p>	<p style="text-align: right;">84</p> <p>1 still be a danger to the public and can still be</p> <p>2 arrested on probable cause without an arrest</p> <p>3 warrant, so I -- I don't think that's universally</p> <p>4 true.</p> <p>5 Q What is Metro's understanding then as to</p> <p>6 whether -- like, let's say one of the suspects was</p> <p>7 found at the apartment.</p> <p>8 Could they have been taken into custody?</p> <p>9 A Depending on who the individual was,</p> <p>10 yes.</p> <p>11 Q So you believe that you can just arrest</p> <p>12 anybody on the street without an arrest warrant as</p> <p>13 long as somebody at Metro says, well, there was</p> <p>14 probable cause?</p> <p>15 A Of course not. If the -- the burden to</p> <p>16 arrest somebody would be probable cause, and</p> <p>17 there's different ways of doing that. Probable</p> <p>18 cause, if fresh, an officer has reason to believe</p> <p>19 there are takable facts, they would be able to</p> <p>20 effect that arrest. Another way of doing that is</p> <p>21 with an arrest warrant.</p> <p>22 So it's -- we don't arrest people just</p> <p>23 for arrest warrants. We can make an arrest on</p> <p>24 probable cause as well.</p> <p>25 Q Well, if you -- I mean, is there</p>
<p style="text-align: right;">83</p> <p>1 can they safely or as safe as possible serve a</p> <p>2 search warrant with the environmental factors that</p> <p>3 are around them? And that also was one of the</p> <p>4 things that played into the SWAT team ultimately</p> <p>5 going with the CET for that service, some of the</p> <p>6 environmental factors that were there and</p> <p>7 outlined.</p> <p>8 BY MR. BREEDEN:</p> <p>9 Q It describes as a reason for exigency</p> <p>10 that the individuals are remaining out of custody.</p> <p>11 But there wasn't even an arrest warrant here, was</p> <p>12 there?</p> <p>13 A From my -- from my recollection, there</p> <p>14 was not an arrest warrant. However, there was PC</p> <p>15 based off of a family member identifying a</p> <p>16 suspect. I also remember there being discussions</p> <p>17 for the gang shooting that North Las Vegas Police</p> <p>18 Department had PC to make an arrest as well, but</p> <p>19 I -- I do not recall that an arrest warrant was</p> <p>20 active.</p> <p>21 Q Okay. And so the reason for the</p> <p>22 exigency that was given is that these people need</p> <p>23 to be taken into custody, but there was no arrest</p> <p>24 warrant to take them into custody, was there?</p> <p>25 A Not that I'm aware of. But somebody can</p>	<p style="text-align: right;">85</p> <p>1 unfettered discretion, in Metro's opinion, to</p> <p>2 arrest on probable cause? Because if that was the</p> <p>3 standard, why would you ever bother to seek an</p> <p>4 arrest warrant? What's the difference between,</p> <p>5 you know, the line at which Metro thinks an arrest</p> <p>6 warrant is needed?</p> <p>7 A Well, if I'm looking for an individual</p> <p>8 and I have a search warrant and believe that</p> <p>9 individual can be inside, and I encounter that</p> <p>10 individual and have probable cause to make an</p> <p>11 arrest, I would be able to make that arrest.</p> <p>12 If I'm looking for an individual or</p> <p>13 don't know where they're at, another avenue is to</p> <p>14 obtain an arrest warrant so any officer that</p> <p>15 encounters that individual would be able to make</p> <p>16 that arrest.</p> <p>17 Q Did Metro conclude that the failure to</p> <p>18 get an arrest warrant for this IAP was a failure</p> <p>19 of policies, standards, or training?</p> <p>20 A I don't believe so.</p> <p>21 Q Was -- were the officers here, were they</p> <p>22 using a search warrant as a substitute for an</p> <p>23 arrest warrant?</p> <p>24 A I don't believe so.</p> <p>25 Q Are you aware that there's some</p>

<p style="text-align: right;">86</p> <p>1 testimony that SWAT officers were told if they 2 encountered the suspects, they were to arrest 3 them? 4 A I am not aware if that happened or not. 5 Q Okay. If that did occur, would that be 6 against Metro's policies, standards, and training? 7 A That if SWAT saw an individual, to 8 arrest them? 9 Q If they were told in the course of 10 executing the search warrant that if they 11 encountered the suspects, they were to arrest 12 them. 13 A Well, a search warrant -- I think 14 we're -- we're maybe confusing some verbiage here. 15 The search warrant signed by a judge gives us 16 authorization to go into a place and seize that 17 property, that structure, and the people present 18 to make it safe to do so. SWAT officers don't 19 typically make arrests. 20 They do the tactical clearing of the 21 structure, and then once it is deemed safe, they 22 turn that over to the investigative or originating 23 unit. 24 So could a SWAT officer make an arrest? 25 They could, because they're a commissioned police</p>	<p style="text-align: right;">88</p> <p>1 filled in in his place for that IAP; correct? 2 A Correct. 3 Q Is that against policies, standards, and 4 training for Metro? 5 MR. ANDERSON: What part? 6 MR. BREEDEN: The part specifically 7 with Sergeant Backman assisting in the IAP. 8 MR. ANDERSON: Go ahead and answer. 9 THE WITNESS: No. And, you know, 10 policing is a 24/7/365 thing that happens. So we 11 have redundancies and -- and sister squads and 12 other sergeants for a reason, so when days off do 13 occur or if somebody is out on vacation, they 14 would be able to still come in and be the sergeant 15 for that, even if that's not their regular squad 16 that they're overseeing. There's still a sergeant 17 that's in that section. 18 BY MR. BREEDEN: 19 Q So -- and we'll talk about this here in 20 a few minutes. 21 Metro did conclude that there had been a 22 failure of training in that Sergeant Backman had 23 not completed the 120-hour SWAT basic training 24 course; correct? 25 A Correct.</p>
<p style="text-align: right;">87</p> <p>1 officer. But it would be the -- normally it would 2 be the detective or the originating entity that 3 would come over, take over custody of the house 4 from SWAT. And they would be making any arrests 5 or doing any interviews or continuing their 6 investigation. 7 Q For the fourth IAP, which is the one 8 that was ultimately approved, there had been 9 signature pages from prior IAPs that were reused 10 even though the IAP had changed; correct? 11 A Correct. 12 Q And that's a failure of policies, 13 standards, and training? 14 A Yes. 15 Q Also, one of the things that occurred 16 was that the anticipated team leader, 17 Sergeant Findley, he happened to be out of town -- 18 I think he was on a hunting trip with his son -- 19 when the fourth IAP was drafted. 20 Were you aware of that? 21 A I'm just aware he was out on vacation. 22 I don't know any of the particulars, but I am 23 aware he was out -- or not working here in town 24 when that did occur. 25 Q And for that reason, Sergeant Backman</p>	<p style="text-align: right;">89</p> <p>1 Q But Metro did not conclude that it was 2 unacceptable for a SWAT sergeant, who hadn't 3 completed basic training, to assist with 4 completion of the IAP? 5 A No, not that I'm aware of. 6 Q So Metro believes that a member of SWAT 7 who has not been completely trained should be 8 assisting in the planning of the operation? 9 That's Metro's position? 10 A Well, Metro's position was they 11 identified a gap. And without going to the 12 specific finding, Sergeant Backman, when he went 13 up to the SWAT section, they were only doing the 14 SWAT school one time a year. And there was 15 additional training that was still given to him, 16 and part of that training was shadowing other 17 supervisors and seeing how that process plays out. 18 So while he did not have the SWAT school 19 with a -- that all of the operators would have 20 had -- that's something that's been rectified -- 21 there was nothing prohibiting him from being able 22 to step out and help out another sergeant with the 23 training that he did have up to that point. 24 Q What did Sheriff McMahill or anyone else 25 at Metro do regarding this conclusion?</p>

<p>90</p> <p>1 A I know that as a result of this</p> <p>2 conclusion, the SWAT school is offered multiple</p> <p>3 times a year. And when operators and sergeants</p> <p>4 are on the list to come up, even if they're not in</p> <p>5 the section, they can go through that school.</p> <p>6 And then anything more specific than</p> <p>7 that, you might want to ask your SWAT SME. But I</p> <p>8 do know it was addressed by the frequency of the</p> <p>9 school being offered. I believe they even</p> <p>10 extended the time frame of the school, so it even</p> <p>11 encompasses more hours. And also getting folks --</p> <p>12 or selected members up to that school even before</p> <p>13 they transitioned or transferred to that position.</p> <p>14 Q Surely as a peace officer who has been</p> <p>15 in charge of training officers before, you agree</p> <p>16 that training has value to officers; right?</p> <p>17 A I do.</p> <p>18 Q And we train officers because we want</p> <p>19 them to perform their job in a safe manner;</p> <p>20 correct?</p> <p>21 A Correct.</p> <p>22 Q And we train them because they want --</p> <p>23 we want officers to perform their job in a manner</p> <p>24 that complies with state and federal law; correct?</p> <p>25 A Yes.</p>	<p>92</p> <p>1 through the TRB; correct?</p> <p>2 A Correct.</p> <p>3 Q And specifically when it says "Problems</p> <p>4 surrounding having a new sergeant in SWAT</p> <p>5 participate in live missions," what problems are</p> <p>6 being referred to?</p> <p>7 A I don't -- I don't recall. What I take</p> <p>8 that as is just having a newer SWAT sergeant come</p> <p>9 up there, but also the situation could be case</p> <p>10 specific. If you had a prior SWAT operator that</p> <p>11 came up and had already been through all of those</p> <p>12 trainings, then that learning curve would be less.</p> <p>13 But I don't remember exactly what it's referring</p> <p>14 to when this says "problems."</p> <p>15 Q Were some of the specific problems that</p> <p>16 he had a role in the planning and the drafting of</p> <p>17 the IAP?</p> <p>18 A Not that I'm aware of.</p> <p>19 Q Were some of the problems that even</p> <p>20 though he was new and had not completed SWAT</p> <p>21 training, that he was given a lead role, for</p> <p>22 example, to do the announcements?</p> <p>23 A Not that I'm aware of.</p> <p>24 Q And was the validation of that</p> <p>25 conclusion unanimous?</p>
<p>91</p> <p>1 Q All of that is part of training; right?</p> <p>2 A It is.</p> <p>3 Q And Sergeant Backman didn't have that</p> <p>4 training when he was on this SWAT operation, did</p> <p>5 he?</p> <p>6 A He did not have the SWAT school, which</p> <p>7 encompasses a lot of different things. However,</p> <p>8 he did have some other institutional training and</p> <p>9 on-the-job training from his time there. But</p> <p>10 he -- all I know that -- today, what occurred</p> <p>11 there is he did not have the 100 and however many</p> <p>12 hours of SWAT school when the shooting did occur.</p> <p>13 Q And we'll talk about Conclusions 7 and 8</p> <p>14 next. They're kind of related, but I guess I'll</p> <p>15 break it down.</p> <p>16 Conclusion 7 was that CIRT recognized</p> <p>17 there were some problems in having a new</p> <p>18 sergeant -- that would Sergeant Backman --</p> <p>19 participate in live missions. But ultimately they</p> <p>20 concluded that Sergeant Backman's actions had been</p> <p>21 within LVMPD's tactics, training, and policy, at</p> <p>22 least what he did in the field.</p> <p>23 Is that a fair summary?</p> <p>24 A Yes.</p> <p>25 Q Okay. So that was validated by Metro</p>	<p>93</p> <p>1 A I do not remember if it was or not.</p> <p>2 Q Okay. So let's talk about number eight.</p> <p>3 This more specifically discusses the failure of</p> <p>4 Sergeant Backman to complete basic SWAT school</p> <p>5 prior to this officer-involved shooting.</p> <p>6 First of all, Sergeant Backman had only</p> <p>7 been on SWAT for 29 days when this occurred;</p> <p>8 correct?</p> <p>9 A Correct.</p> <p>10 Q He had not completed the 120-hour basic</p> <p>11 SWAT school; correct?</p> <p>12 A Correct.</p> <p>13 Q And Metro concluded through the TRB that</p> <p>14 that was a failure of training for Sergeant</p> <p>15 Backman; correct?</p> <p>16 A Correct.</p> <p>17 Q Was that a unanimous finding?</p> <p>18 A I do not remember.</p> <p>19 Q What did Sheriff McMahon or anyone else</p> <p>20 at Metro do in response to this finding?</p> <p>21 A With this finding, like I previously</p> <p>22 talked about, the SWAT school is offered multiple</p> <p>23 times a year now. And if we can predict or</p> <p>24 forecast projected openings with people retiring</p> <p>25 or promoting or moving on, we are able to get</p>

<p style="text-align: right;">94</p> <p>1 those positions -- or the subjects that are going</p> <p>2 to fill those positions through that SWAT school</p> <p>3 before they transfer up to the unit or immediately</p> <p>4 after transferring.</p> <p>5 Q The next one I would like to discuss is</p> <p>6 Conclusion Number 9, which appears on page nine,</p> <p>7 LVMPD4834. This is a rather long one, and we're</p> <p>8 going to spend some time on this one. But this</p> <p>9 concerns SWAT's decision to use a CET tactic</p> <p>10 during this search warrant; correct?</p> <p>11 A Correct.</p> <p>12 Q Have you heard CET also referred to as</p> <p>13 dynamic entry?</p> <p>14 A I have.</p> <p>15 Q Why does Metro use the term "CET" as</p> <p>16 opposed to "dynamic entry"?</p> <p>17 A From my recollection, CET was a term</p> <p>18 coined by Lieutenant Melton when he was in SWAT,</p> <p>19 and that -- that name had just stuck from his time</p> <p>20 there and what he had implemented.</p> <p>21 Q Okay. And ultimately Metro, through the</p> <p>22 TRB, concluded that the use of CET for this search</p> <p>23 warrant was a policy and training failure and not</p> <p>24 to -- not within standardized tactics at Metro;</p> <p>25 correct?</p>	<p style="text-align: right;">96</p> <p>1 standard. We're going off of a best practice</p> <p>2 standard.</p> <p>3 And the board determined the best</p> <p>4 practice standard for that -- in that decision</p> <p>5 would not have been the CET.</p> <p>6 BY MR. BREEDEN:</p> <p>7 Q It would have been a surround and call</p> <p>8 out?</p> <p>9 A A surround and call out or waiting</p> <p>10 another day, continued surveillance. There was a</p> <p>11 few other things, but yes.</p> <p>12 Q Okay. Now, in coming to this conclusion</p> <p>13 that a CET should not have been used, Metro in the</p> <p>14 TRB considered recent changes to SWAT's policies</p> <p>15 and procedures; correct?</p> <p>16 A Correct.</p> <p>17 Q So shortly before this officer-involved</p> <p>18 shooting, official policy was, quote, using a</p> <p>19 controlled entry tactic for the sole purpose of</p> <p>20 recovering narcotics or property will never be</p> <p>21 considered as an acceptable practice, end quote.</p> <p>22 Do you see that?</p> <p>23 A I do.</p> <p>24 Q And so would you agree with me, under</p> <p>25 that policy, since this was a property search</p>
<p style="text-align: right;">95</p> <p>1 A Correct.</p> <p>2 Q So the issue here is whether a CET or a</p> <p>3 SACO should have been used.</p> <p>4 We haven't really explained much on the</p> <p>5 record what SACO is, S-A-C-O. But can you explain</p> <p>6 what that stands for?</p> <p>7 A A SACO stands for surround and call out.</p> <p>8 Q Is it Metro's position that a surround</p> <p>9 and call out just simply could not have been used</p> <p>10 for service of this search warrant?</p> <p>11 A Can you say that one more time?</p> <p>12 Q Is it Metro's position that a surround</p> <p>13 and call out just simply could not have been used</p> <p>14 for service of this search warrant? I'll say, it</p> <p>15 would seem to me that that's probably not Metro's</p> <p>16 conclusion, because it concluded that the use of</p> <p>17 CET was improper.</p> <p>18 So the only other alternative would be</p> <p>19 surround and call out; correct?</p> <p>20 MR. ANDERSON: Objection. Form.</p> <p>21 THE WITNESS: So the board looked at</p> <p>22 the CET, and the SWAT team's decision to do that</p> <p>23 was still reasonable. But the benefit we have as</p> <p>24 an administrative board is we're not just going</p> <p>25 off of a reasonableness -- objectively reasonable</p>	<p style="text-align: right;">97</p> <p>1 warrant only, that that policy would clearly bar a</p> <p>2 controlled entry tactic from being used?</p> <p>3 A Can you say that one more time, please?</p> <p>4 Q Yeah.</p> <p>5 So this -- the policy, as it existed in</p> <p>6 February of 2021, was that CET was simply banned</p> <p>7 for property-only search warrants; correct?</p> <p>8 A Correct.</p> <p>9 Q All right. So under the policy as it</p> <p>10 existed in February of 2021, SWAT should not have</p> <p>11 done a CET for this search warrant; correct?</p> <p>12 A The board found that the CET -- a</p> <p>13 surround and call out would have been the better</p> <p>14 approach to serving the search warrant.</p> <p>15 Q Well, under the older policy -- and it</p> <p>16 did change a little bit. But under the older</p> <p>17 policy, there was no discretion. It just -- CET</p> <p>18 simply could not be used for property-only search</p> <p>19 warrant; correct?</p> <p>20 A Correct.</p> <p>21 Q Okay. Now, that policy changed in</p> <p>22 September of 2021, just a few months before</p> <p>23 Mr. Williams' officer-involved shooting; right?</p> <p>24 A Correct.</p> <p>25 Q And the new policy that was in effect,</p>

<p style="text-align: right;">98</p> <p>1 it gives a general rule, but then it still gives</p> <p>2 the example that using a controlled entry tactic</p> <p>3 for the purpose of recovering narcotics or</p> <p>4 property will never be considered as an acceptable</p> <p>5 practice. It's slightly different language. Let</p> <p>6 me just read it.</p> <p>7 So the policy in effect at the time was,</p> <p>8 quote, "A CET will not be used when the primary</p> <p>9 suspect is in custody and there is no articulable</p> <p>10 information of a threat inside the residence.</p> <p>11 I.e., a controlled entry tactic will not be used</p> <p>12 for the sole purpose of recovering narcotics or</p> <p>13 property and there is an absent threat of an armed</p> <p>14 and dangerous subject inside," end quote.</p> <p>15 Q Is it Metro's position that even under</p> <p>16 the new policy, CET was banned for property-only</p> <p>17 search warrants?</p> <p>18 A Absent any articulable threat inside the</p> <p>19 residence, yes.</p> <p>20 Q What was the specific articulable threat</p> <p>21 for Mr. Williams' case?</p> <p>22 A I believe they reference that. We</p> <p>23 talked about it before being the -- the danger to</p> <p>24 the public, if I recall correctly.</p> <p>25 Q So I'll let you know, my understanding</p>	<p style="text-align: right;">100</p> <p>1 challenges for the officers when trying to do</p> <p>2 surveillance on -- countersurveillance in a</p> <p>3 hostile environment, coupled with the gas station</p> <p>4 located right behind there with a small wall with</p> <p>5 a lot of community exposure, and it being in a</p> <p>6 multi-family unit complex. Those are the things</p> <p>7 I'm remembering, without being able to read it,</p> <p>8 that all compounded further reason to need to do</p> <p>9 the CET, to get in there quickly, overwhelm and</p> <p>10 dominate that residence to safely take anyone in</p> <p>11 custody.</p> <p>12 Q So the policy changed -- in the year</p> <p>13 prior to Mr. Williams' death, the policy changed</p> <p>14 from complete ban on CET for a property-only</p> <p>15 search warrant to, okay, CET is okay under some</p> <p>16 limited circumstances for a property damage search</p> <p>17 warrant -- or a property-only search warrant; is</p> <p>18 that correct?</p> <p>19 A Yes.</p> <p>20 Q Okay. Who made that change?</p> <p>21 A I don't remember. I don't recall at</p> <p>22 this time.</p> <p>23 Q Well, if SWAT policies and procedures</p> <p>24 are to be changed, who would have been in charge</p> <p>25 of that in 2021?</p>
<p style="text-align: right;">99</p> <p>1 of the law is that would be an example of a</p> <p>2 general nonspecific threat, and that that is not</p> <p>3 sufficient under the law. I'm just telling you my</p> <p>4 understanding. Mr. Anderson may disagree.</p> <p>5 But that instead you would have to have</p> <p>6 a specific articulable threat. In other words,</p> <p>7 like somebody looked through a window and they saw</p> <p>8 Mr. Williams there with -- with a gun drawn ready</p> <p>9 to fire in advance of this happening. Nothing</p> <p>10 like that occurred here; right? No specific</p> <p>11 articulable threat?</p> <p>12 MR. ANDERSON: I will object to the</p> <p>13 question as, he is correct, I disagree. I'll</p> <p>14 sustain that part.</p> <p>15 BY MR. BREEDEN:</p> <p>16 Q Okay. So he'll -- he will object to my</p> <p>17 statement of the law.</p> <p>18 But did -- do you have anything that I</p> <p>19 would consider to be a specific articulable</p> <p>20 threat?</p> <p>21 A From what I can remember, without having</p> <p>22 it written out right in front of me, their</p> <p>23 justification was the violent nature of the</p> <p>24 events, the citizen source who was a family member</p> <p>25 identifying that that subject stayed there, the</p>	<p style="text-align: right;">101</p> <p>1 A In 2021, I know the chain of command was</p> <p>2 Captain Brian Cole, and Deputy Chief Sasha Larkin</p> <p>3 would have been the -- the deputy chief over that.</p> <p>4 But without talking to them or having</p> <p>5 any -- anything written down, I couldn't tell you</p> <p>6 specifically who did it or who approved it or how</p> <p>7 it was approved.</p> <p>8 Q Well, at that time, the SWAT lieutenant</p> <p>9 over tactical for SWAT was Lieutenant O'Daniel;</p> <p>10 correct?</p> <p>11 A Correct.</p> <p>12 Q Would you agree with me that if that</p> <p>13 policy and procedure is to be changed -- and, you</p> <p>14 know, according to Metro it was -- that</p> <p>15 Lieutenant O'Daniel and Captain Cole would have to</p> <p>16 approve that?</p> <p>17 A I would assume that, yes.</p> <p>18 Q Okay. What is the process for -- let's</p> <p>19 just say hypothetically, Lieutenant O'Daniel wants</p> <p>20 to change an official SWAT policy.</p> <p>21 What is the process for doing that?</p> <p>22 A Recommendation has to be drafted. It</p> <p>23 goes up through the chain of command, and then it</p> <p>24 goes over to our general counsel section that then</p> <p>25 reviews all of that. And then there's an approval</p>

<p style="text-align: right;">102</p> <p>1 process with executive staff members weighing in 2 and approving that before policy change can occur. 3 Q Would there be memos regarding the 4 policy change and the reasons why? 5 A I wasn't a part of changing policy then. 6 I know in my current position, I see those now, 7 that those come through and there are memos. 8 Q Why did that change occur in September 9 of 2021? 10 A I couldn't tell you. 11 Q Do you agree that the change made things 12 less safe for the public? 13 MR. ANDERSON: Objection. Form. 14 THE WITNESS: No, I don't think that 15 the change made it less safe. In discussing what 16 I talked about a little earlier, we have to give 17 some leeway, and the law even allows for officers 18 to be able to make those discretionary judgment 19 calls when they are there in person seeing, 20 smelling, hearing, observing all of those things 21 that would dictate the tactics that they're going 22 to try to implement. 23 BY MR. BREEDEN: 24 Q Metro, through the TRB, did conclude 25 that there were simply too many unknown factors in</p>	<p style="text-align: right;">104</p> <p>1 by the SWAT commander that's coming in. I am 2 aware of the new leadership there and utilizing 3 the surround and call out a lot more frequently. 4 But that would be a question I think better asked 5 of that expert. 6 Q Okay. And I -- and I'll ask that 7 individual. 8 But to your knowledge, did the policy 9 change back to CET being banned for a 10 property-only search warrant? 11 A I'm not aware. 12 Q Well, let's talk a little bit about 13 Conclusion Number 11 then, which begins on 14 page 12, LVMPD4837. 15 This is a discussion of CET and how CET 16 relates to knock and no-knock warrants; correct? 17 A Correct. 18 Q The warrant in this case was a regular 19 or knock-and-announce warrant; right? 20 A Correct. 21 Q Okay. And does Metro acknowledge that a 22 knock-and-announce is part of the Fourth Amendment 23 to the United States Constitution? 24 A Yes. 25 Q And does Metro agree that a violation of</p>
<p style="text-align: right;">103</p> <p>1 order to justify a CET for service of this 2 warrant; correct? 3 A Correct. 4 Q And some of the unknown factors included 5 whether there were children or elderly people or 6 vulnerable individuals inside the apartment; 7 correct? 8 A Correct. 9 Q In fact, when the search warrant was 10 served, there was no information of any kind as to 11 who was actually inside; correct? 12 A Well, information -- there was 13 information based on who stays there, but we had 14 no -- or I'm not aware of any information for, at 15 that moment in time, who would be inside. 16 Q Yeah. There hadn't even been any type 17 of surveillance for 11 days before the search 18 warrant was served; correct? 19 A Correct. 20 Q All right. So Metro agreed that CET 21 should not have been authorized for this 22 particular warrant execution. 23 What, if anything, did Sheriff McMahon 24 or anyone else at Metro do regarding that finding? 25 A That's probably a question better asked</p>	<p style="text-align: right;">105</p> <p>1 the Fourth Amendment's knock-and-announce 2 principles is, by legal definition, excessive 3 force? 4 MR. ANDERSON: Objection. Form. 5 Go ahead. 6 THE WITNESS: I would say it could be 7 excessive force. 8 BY MR. BREEDEN: 9 Q Okay. Does Metro acknowledge that 10 violation -- or let me rephrase. 11 Does Metro acknowledge that knock and 12 announce is also required by Nevada state law? 13 A Yes. 14 Q What position does Metro take regarding 15 whether knock and announce is part of the Nevada 16 Constitution's search and seizure protections? 17 MR. ANDERSON: Objection. Form. 18 BY MR. BREEDEN: 19 Q In other words, is knock and announce 20 constitutionally required by the Nevada 21 constitution as well? 22 A Yes. 23 Q So I will paraphrase here, and if you 24 disagree, let me know. 25 But CET reviewed what occurred here, and</p>

<p style="text-align: right;">106</p> <p>1 they concluded that there was a policy and</p> <p>2 training failure allowing CET entry for</p> <p>3 knock-and-announce warrants, because the purpose</p> <p>4 of CET entry is to surprise and overwhelm people</p> <p>5 who might be inside the structure to be searched,</p> <p>6 whereas knock and announce requires alerting the</p> <p>7 people and giving them time to come to the door</p> <p>8 and allow admittance to the officers.</p> <p>9 Do you agree that that -- that's what</p> <p>10 CET concluded?</p> <p>11 MR. ANDERSON: Objection. Form.</p> <p>12 THE WITNESS: Can you actually ask</p> <p>13 that one more time, please?</p> <p>14 BY MR. BREEDEN:</p> <p>15 Q Yeah. I'm sorry it has to be so long,</p> <p>16 because we're using a lot of legal terms. Right?</p> <p>17 I'll try to put it more in a nutshell or more</p> <p>18 brief to you.</p> <p>19 The conclusion of CET was that if</p> <p>20 officers have to perform knock and announce, that</p> <p>21 it would be inconsistent with the constitution to</p> <p>22 do a CET entry, because CET entry requires</p> <p>23 surprise and overwhelming response, whereas knock</p> <p>24 and announce, you know, requires something</p> <p>25 different.</p>	<p style="text-align: right;">108</p> <p>1 door, ascertain it was police officers with a</p> <p>2 warrant, and provide them entry. And the</p> <p>3 conclusion was six seconds, given the totality of</p> <p>4 the circumstances, was not an adequate amount of</p> <p>5 time.</p> <p>6 Do you agree with that? We're looking</p> <p>7 here at page 14, the second paragraph.</p> <p>8 A So the -- there were some disagreements</p> <p>9 on -- on that time. It was accepted that -- or</p> <p>10 believed that it was not a no knock -- it did not</p> <p>11 constitute a no-knock warrant because the</p> <p>12 advisements were made and knocking did occur;</p> <p>13 however, the disagreement was the time allowed to</p> <p>14 that individual to be able to come answer that</p> <p>15 door.</p> <p>16 So that's why the board upheld it as a</p> <p>17 policy failure based on the SWAT manual having</p> <p>18 those two different options that -- that</p> <p>19 contradict each other and cause confusion, and</p> <p>20 that's why the decision was upheld -- or the</p> <p>21 finding was upheld.</p> <p>22 Q Metro, through TRB, agreed or validated</p> <p>23 both that the decision to use CET for a knock and</p> <p>24 announce warrant itself was improper, and then</p> <p>25 also the fact that only -- they only waited six</p>
<p style="text-align: right;">107</p> <p>1 A We did identify and agree with the</p> <p>2 conflicting ideologies of those two different</p> <p>3 concepts, yes.</p> <p>4 Q So Metro determined that a CET entry is</p> <p>5 constitutionally inconsistent with knock and</p> <p>6 announce principles?</p> <p>7 A I'm sorry. One more time.</p> <p>8 Q Yes.</p> <p>9 Metro did conclude that CET entry is</p> <p>10 inconsistent with constitutional knock and</p> <p>11 announce principles?</p> <p>12 MR. ANDERSON: Objection. Form.</p> <p>13 THE WITNESS: The board recognized the</p> <p>14 difference with CET being more of a dynamic tactic</p> <p>15 and the knock and announce being a tactic where</p> <p>16 you're giving an individual time to know you're</p> <p>17 there and come answer the door. And that there</p> <p>18 was -- in using one tactic over the other, they</p> <p>19 seemed to contradict each other.</p> <p>20 BY MR. BREEDEN:</p> <p>21 Q Okay. And even further analyzing how</p> <p>22 knock and announce was used in this case by the</p> <p>23 officers -- and I'm not saying I agree with this,</p> <p>24 but the conclusion was that officers had waited</p> <p>25 only six seconds for Mr. Williams to come to the</p>	<p style="text-align: right;">109</p> <p>1 seconds for Mr. Williams to respond was improper;</p> <p>2 correct?</p> <p>3 A Correct.</p> <p>4 Q Okay. Now, was that a unanimous</p> <p>5 validation by the TRB?</p> <p>6 A I do not remember.</p> <p>7 Q What, if anything, did Sheriff McMahill</p> <p>8 or other members of Metro do as a result of this</p> <p>9 finding?</p> <p>10 A That would be a question for your SWAT</p> <p>11 expert that's coming in.</p> <p>12 Q Okay. To your knowledge, you don't know</p> <p>13 of anything that was done as a result of that</p> <p>14 finding?</p> <p>15 A I do not know.</p> <p>16 And when there is a natural pause, can</p> <p>17 we take one more break?</p> <p>18 MR. BREEDEN: Yeah, let's take a break</p> <p>19 here, and then we can -- we'll go off the record</p> <p>20 at this time.</p> <p>21 THE VIDEOGRAPHER: Going off the</p> <p>22 record at 11:46 a.m.</p> <p>23 (Whereupon, a recess was taken.)</p> <p>24 THE VIDEOGRAPHER: We're back on the</p> <p>25 record. The time is 12:28 p.m.</p>

<p style="text-align: right;">110</p> <p>1 BY MR. BREEDEN:</p> <p>2 Q All right. Deputy Chief Rader, we took</p> <p>3 a lunch break. We're back on the record now, and</p> <p>4 you'll still under oath.</p> <p>5 I wanted to ask you a question. During</p> <p>6 the -- since we were talking about CET entry and</p> <p>7 knock and announce, are you aware that during the</p> <p>8 execution of the search warrant, nobody ever</p> <p>9 physically knocked on the front door of the</p> <p>10 apartment?</p> <p>11 A Well, I know that there was multiple</p> <p>12 attempts with the ram. I mean, when officers</p> <p>13 knock on doors, sometimes I would use my baton.</p> <p>14 So I think it's a vernacular of knocking with</p> <p>15 knuckles or your hand or there were knocks on the</p> <p>16 door with the ram. But -- so -- I will agree</p> <p>17 that, yes, no one walked up and knocked with their</p> <p>18 hand.</p> <p>19 Q The first contact with the door was with</p> <p>20 the battering ram?</p> <p>21 A Yes.</p> <p>22 Q What -- what is Metro's policy on where</p> <p>23 or when officers should attempt to physically</p> <p>24 knock with their hand on the door as part of a</p> <p>25 knock and announce?</p>	<p style="text-align: right;">112</p> <p>1 to whether the announcement should include the</p> <p>2 specific apartment number?</p> <p>3 A It should include the address and the</p> <p>4 apartment number.</p> <p>5 Q Okay. I would like to move on here to</p> <p>6 Issue Number 15, and this is on page 17 of the TRB</p> <p>7 memorandum. That's LVMPD4842.</p> <p>8 So this indicates that public safety</p> <p>9 statements were recorded on body-worn cameras, and</p> <p>10 that is contrary to department policy.</p> <p>11 Is that a fair statement?</p> <p>12 A It is.</p> <p>13 Q Okay. And so let's back up a little</p> <p>14 bit.</p> <p>15 First of all, what are public safety</p> <p>16 statements?</p> <p>17 A So a public safety statement is</p> <p>18 something that was contractually negotiated with</p> <p>19 the bargaining unions for the police officers and</p> <p>20 the supervisors. And it has to do with -- we</p> <p>21 talked a little bit before about an officer being</p> <p>22 investigated for a crime has the same rights</p> <p>23 afforded to them as any other person in that</p> <p>24 position where they could remain silent. But</p> <p>25 there's, in this instance, also a need for public</p>
<p style="text-align: right;">111</p> <p>1 A I'm not aware that we indicate using</p> <p>2 your hand or not or clearly spell that out. I'm</p> <p>3 not aware that we do.</p> <p>4 Q Does Metro have a policy, practice, or</p> <p>5 procedure that the knock should actually be</p> <p>6 attempted?</p> <p>7 A Well, for -- for what? In reference to</p> <p>8 what?</p> <p>9 Q On a knock and announce search warrant.</p> <p>10 A I know that it says advisements will be</p> <p>11 made, but I don't know if it physically says or is</p> <p>12 written down "use your hand or will knock." I</p> <p>13 don't -- I can't answer that today on what it says</p> <p>14 to physically do.</p> <p>15 Q Okay. You can't answer that.</p> <p>16 Who would be the better person to ask</p> <p>17 that question?</p> <p>18 A The -- I would ask the SWAT expert that.</p> <p>19 Q Okay. I have a similar question. You</p> <p>20 know, during the announcement of the search</p> <p>21 warrant -- this was at an apartment complex, and</p> <p>22 the original announcement by Sergeant Backman did</p> <p>23 not provide the apartment number.</p> <p>24 What is Metro's policy, when knock and</p> <p>25 announce is performed in an apartment complex, as</p>	<p style="text-align: right;">113</p> <p>1 safety to ensure that there's no outstanding</p> <p>2 individuals, there's no longer a threat. Did the</p> <p>3 suspect get away? Did your rounds go in a certain</p> <p>4 direction and somebody could have been impacted?</p> <p>5 So what we came up with, mutually agreed</p> <p>6 upon, was the public safety statement. So after</p> <p>7 an officer-involved shooting, a supervisor will</p> <p>8 ask a series of questions to the involved officer</p> <p>9 that they have to answer. And it's questions on,</p> <p>10 "Did you discharge your firearm? Which direction?</p> <p>11 Is there anyone in need of medical attention?"</p> <p>12 So it's -- it's -- not community</p> <p>13 care-taking, but it's something that the officers</p> <p>14 have to do to provide us some information on if</p> <p>15 anybody else could be in danger or at least what</p> <p>16 we're dealing with, without going into the</p> <p>17 specifics of anything that would infringe up their</p> <p>18 constitutional rights of -- of pleading the Fifth.</p> <p>19 Q So the public safety statements are</p> <p>20 required by Metro's contract with the -- contract</p> <p>21 with the police union?</p> <p>22 A Yes.</p> <p>23 Q And are these public safety statements</p> <p>24 considered part of a criminal investigation</p> <p>25 against the officer?</p>

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1 A I'm not sure. And I -- I think the way
2 they were formed was so the officer would have to
3 answer it, but wouldn't also incriminate himself
4 if something else were to happen. So I -- I don't
5 really know how to answer if that would be part of
6 the -- the criminal investigation or not. I
7 just -- I don't know.

8 Q Are they available to the FIT team when
9 they prepare their report?

10 A Yes, it would be available to the FIT
11 team. So I would say that it -- actually, I can't
12 even answer that. I don't -- I don't -- I might
13 be confusing with the CIRT and the FIT. That
14 would be something I couldn't answer you today. I
15 don't know definitively one way or the other.

16 Q But the officers, when asked to give a
17 public safety statement, do not have the right to
18 refuse under the bargaining agreement?

19 A Right.

20 Q And the questions that they're asked --
21 because I think I've seen these on the video and
22 they're -- are they read off from, like, a piece
23 of paper?

24 A Yeah. The supervisors are all issued
25 cards, and they can pull them out so they can say

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1 them exactly verbatim so they're not infringing on
2 any, you know, officer's right to incriminate, but
3 still getting the necessary information that we
4 need as a department, that the community would
5 expect us to get, while investigating that
6 incident.

7 Q And -- and you may have answered this
8 already. But do the officers have the ability to
9 refuse to give the public safety statement?

10 A No, they do not.

11 Q Well, if they did refuse, would they be
12 terminated?

13 A It is in policy, so, yes -- well, it
14 would be subject to discipline, which could be
15 progressive discipline, but I don't know where
16 that falls in on our discipline matrix. But they
17 would be subjected to disciplinary action for not
18 complying.

19 Q And since these are required by the --
20 or these were invented as part of the bargaining
21 agreement with the police union, under what
22 circumstances are the public safety statements to
23 be made by officers?

24 A I'm sorry. Can you say that again?

25 Q Yeah. And I'm sorry if it was

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1 confusing.

2 But, you know, what triggers public
3 safety statements to even be asked of officers?
4 For example, is it only officer-involved
5 shootings? Is it other incidents?

6 A It is, it's officer-involved shootings,
7 when an officer intentionally discharges their
8 firearm as a use of force.

9 Q What is the policy regarding how soon
10 after the officer-involved shooting the officers
11 are supposed to be given the public safety
12 statements?

13 A I don't know the exact time frame, but
14 it's very quickly. So the -- obviously scene
15 stabilization is the main priority, life, safety.
16 But when the sergeant gets there and the scene is
17 deemed safe, there's no outstanding immediate
18 threats right there in the area, it's supposed to
19 be relatively quickly that the sergeant gets that
20 statement.

21 Q So ideally, as soon as the scene is
22 secure, the officer should be asked to give a
23 public safety statement on scene?

24 A Yes.

25 Q And in this case, the only issue with

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1 CIRT and TRB was that Metro found that these were
2 properly given to the officers, but they should
3 not have been recorded by body-worn camera?

4 A Correct.

5 Q How should they be recorded then?

6 A The supervisor writes down the response.

7 Q Well, why not just record them on
8 body-worn camera?

9 A I wasn't part of that negotiation. I
10 don't know. I believe it would have to do with
11 the union's agreeing to having the officers
12 cooperate in providing that information. And I
13 couldn't tell you how we came upon that, but I
14 just know it was something that was mutually
15 agreed upon by the union. And our policy is to
16 not record it on body-worn camera.

17 Q Okay. Because it just seemed a little
18 unusual to me that the answers are to be recorded,
19 but we don't keep a verbatim video copy of the
20 responses.

21 So are you -- are you aware of the exact
22 reason for that, other than it was a negotiation
23 with the union?

24 A I don't. From my -- from my time on, I
25 know that sometimes people can maybe do some

<p style="text-align: right;">118</p> <p>1 excited utterances. I really don't know the 2 reason or the thought behind that, because it was 3 negotiated before -- long before I was ever in my 4 current position now. 5 Q And that conclusion was validated by 6 TRB. 7 Did Sheriff McMahon, or anyone else at 8 Metro, take any action as a result of the 9 recording on body-worn camera of the public safety 10 statement? 11 A Not that I'm aware of. I just know that 12 it's -- it continues to be our policy and taught 13 in the supervisor schools. 14 Q Conclusion Number 18 begins on the next 15 page, coincidentally 18 of the TRB memorandum, 16 Las Vegas -- LVMPD4843. And this refers to the 17 fact that after the shooting, officer -- and I 18 believe the officer's name is pronounced Eshe, 19 E-S-H-E -- that Officer Eshe manipulated 20 Officer Kubla's firearm. 21 What was that about? What did 22 Officer Eshe do? 23 A So Officer Kubla was injured 24 significantly in this incident by gunfire. And in 25 part of the -- securing the scene, you don't want</p>	<p style="text-align: right;">120</p> <p>1 Q And was there any action taken by 2 Sheriff McMahon or anyone else associated with 3 Metro regarding the manipulation of the firearm? 4 A Not that I'm aware of. 5 Q Moving on to Conclusion Number 23, CIRT 6 had recommended that the new 14-page IAP be 7 distributed to -- I guess a way to phrase this is 8 just additional department personnel for their 9 use. 10 Is that fair? 11 A Right. 12 You're talking about finding 23? 13 Q Yes. 14 A Right. The recommendation was to really 15 formalize this IAP. So everybody had it. They 16 would be using the same form. It would be pushed 17 out on the Internet where forms can be accessed, 18 as well our online training, which is UMLV, 19 University of Metro Las Vegas. So every single 20 officer, whether they're senior, tenured, a 21 brand-new one, would know the right form to use. 22 Q And Metro, through TRB, validated or 23 agreed with that; correct? 24 A Correct. 25 Q And really the reason why this was</p>
<p style="text-align: right;">119</p> <p>1 to leave any firearms that are around. So 2 Officer Eshe recovered the firearm and didn't want 3 that firearm to be in battery. If you're slinging 4 a weapon that -- or you don't have a holster for 5 it, you don't want to have an accidental or 6 negligent discharge. 7 So the officer did what we 8 administratively refer to as make safe, where you 9 would remove the magazine or remove the round that 10 is in the chamber. We don't want to see that 11 happen on an officer-involved shooting, because 12 that does -- you know, that firearm is a piece of 13 evidence. 14 But at the time, it was reasonable, with 15 the totality of the circumstances going on and 16 having to do a down officer rescue and securing 17 another individual inside the apartment, to have a 18 need to make that firearm safe. So that's why the 19 board agreed with that conclusion, that while not 20 ideal, it was still reasonable that he did that, 21 not knowing that it was used in an 22 officer-involved shooting. 23 Q Okay. And Metro, through TRB, agreed or 24 validated that finding? 25 A Yes.</p>	<p style="text-align: right;">121</p> <p>1 recommended is there were problems with the IAP 2 that were identified with the officer-involved 3 shooting; correct? 4 A There were. 5 Q Wrong forms were being used; correct? 6 A I would say outdated forms and the older 7 form. And I mentioned it earlier, the newer form 8 had not been distributed department-wide, which 9 caused the confusion. It was still the same form; 10 however, the newer form had additional pages on 11 there, so not out -- or not up-to-date form. 12 Q Yeah. And so if officers are using 13 outdated forms, then, by definition, they haven't 14 been trained properly on the correct form; right? 15 A Yes, there definitely is -- is an issue 16 there. 17 Q Okay. I would like to talk next about 18 Conclusion Number 24. That's on page 19, 19 LVMPD4844. 20 CIRT had recommended and Metro validated 21 a conclusion that phase one of FTEP for sergeants 22 in SWAT be extended to one month. 23 Now, what does that mean, and what is 24 FTEP? 25 A So FTEP is field training and evaluation</p>

<p style="text-align: right;">122</p> <p>1 program. It's something, when somebody gets a new 2 assignment -- it was really for when officers come 3 out of the academy, there's a field training 4 program. But it can be utilized in instances like 5 this too, where somebody is new to a section, they 6 have a training and evaluation period. 7 Q And so what was the old period, if not 8 one month? 9 A I'm not familiar with it. That might be 10 another question for the SWAT expert coming in. 11 Q To your knowledge, was there any FTEP 12 period then for people coming onto SWAT? 13 A I could not tell you yes or no. I'm 14 unaware of it either way. 15 Q Okay. Are you aware of any actions or 16 changes that were made by Sheriff McMahill or 17 other personnel at LVMPD regarding this 18 conclusion? 19 A Just that they have formalized the FTEP 20 process now for sergeants going to the unit. 21 Q But was that to your -- and if you don't 22 know, you don't know. 23 But was that actually implemented? 24 A It was. But how it was implemented, I 25 would -- again, I would defer to the SWAT</p>	<p style="text-align: right;">124</p> <p>1 Q Okay. This recommendation was a direct 2 result of the fact that Sergeant Backman had not 3 completed the 120-hour basic SWAT school, was it 4 not? 5 A It was. 6 Q And was this recommendation implemented 7 by Metro? 8 A I believe it was. And from what I've 9 heard, they've even added hours. It's over 120 10 hours now. 11 Q How many hours is it now? 12 A I thought the number I heard was 160, 13 but I wouldn't want you to quote me on that. 14 That's another one the SWAT expert would be able 15 to tell you. 16 Q So the next few we're going to discuss 17 involve situations where the conclusions of CIRT 18 were modified by Metro and the TRB. So I would 19 like you to look at Conclusion Number 26, which 20 begins on page 19 of the TRB memo, LVMPD4844. 21 And so the recommendation here from CIRT 22 or how it was originally written up was that CIRT 23 recommended that LVMPD recategorize the use of CET 24 to only be utilized when a no-knock search warrant 25 is approved and has judicial preapproval.</p>
<p style="text-align: right;">123</p> <p>1 commander that I believe will be coming in. 2 Q Okay. Moving on, same page, Conclusion 3 Number 25, this concluded -- this conclusion was 4 validated or upheld by Metro through TRB; correct? 5 A Correct. 6 Q And this recommendation was that the 7 120-hour basic SWAT school should be available and 8 scheduled within two weeks of a SWAT transfer list 9 becoming certified; correct? 10 A Correct. 11 Q What was the old standard? 12 A The old standard was it was offered one 13 time a year. And if you transferred after that, 14 you would just get on-the-job stuff until the next 15 SWAT school came about. 16 Q And so at the time the officer-involved 17 shooting with Mr. Williams occurred, when was the 18 one time of year that it was offered? Like, July? 19 A If memory serves me correctly, I thought 20 it was March. That's sticking out to me. But 21 without looking at it on a piece of paper, I 22 couldn't be positive. 23 Q Okay. And our SWAT person may know more 24 about that? 25 A I think they should.</p>	<p style="text-align: right;">125</p> <p>1 And really Metro, through the TRB, 2 agreed with that conclusion. They just reworded 3 it a little bit that it should be evaluated and 4 considered; is that fair? 5 A That's fair. 6 Q And was that determination by Metro and 7 the TRB unanimous? 8 A I don't remember. 9 Q And then was that issue actually 10 evaluated and considered following this 11 recommendation? 12 A You would have to follow up with the 13 SWAT expert. 14 Q Do you know if any changes to CET to 15 restrict it to no-knock search warrants only, was 16 that ever implemented? 17 A I'm not aware if it was or was not. 18 Q Okay. A similar issue with Conclusion 19 Number 27. This was essentially adopted by Metro 20 through the TRB, but, again, modified the language 21 from CIRT to just say that this issue needs to be 22 evaluated as to whether this should occur; 23 correct? 24 A Correct. 25 Q In other words, CIRT said it should</p>

<p style="text-align: right;">126</p> <p>1 occur, and TRB said, well, we should evaluate it</p> <p>2 further whether it should occur; correct?</p> <p>3 A Correct.</p> <p>4 Q All right. And that, again, concerned</p> <p>5 the knock and announce and the reasonable time to</p> <p>6 respond requirement; correct?</p> <p>7 A It does.</p> <p>8 Q Was the validation or modification of</p> <p>9 this conclusion, was that unanimous by the TRB?</p> <p>10 A I do not remember.</p> <p>11 Q Are you aware of any time in Metro's</p> <p>12 history where there was either a formal or</p> <p>13 informal policy about the number of seconds or</p> <p>14 minutes that officers should wait after the</p> <p>15 announcements before using force?</p> <p>16 A I'm not aware either way.</p> <p>17 Q Okay. I recently took Team Leader</p> <p>18 Sergeant Findley's deposition. And he indicated</p> <p>19 at one time, Metro SWAT had a policy written right</p> <p>20 into the policies that said ten seconds was</p> <p>21 reasonable.</p> <p>22 Are you -- do you have any knowledge</p> <p>23 about that?</p> <p>24 A I do not.</p> <p>25 Q Do you have any knowledge about how the</p>	<p style="text-align: right;">128</p> <p>1 Q And one of the reasons Metro came to</p> <p>2 this conclusion was there was question in the</p> <p>3 Williams' officer-involved shooting as to whether</p> <p>4 NFDDs should have been deployed at all and whether</p> <p>5 they should have been deployed in the manner that</p> <p>6 they were; is that fair?</p> <p>7 A Yes.</p> <p>8 Q Okay. And specifically there was a</p> <p>9 question that the NFDD, at least the stun stick,</p> <p>10 was inserted through a window and deployed</p> <p>11 essentially blind, without knowing who was on the</p> <p>12 other side; correct?</p> <p>13 A There was some disagreement on that.</p> <p>14 When we say "blind," the tactic -- from what was</p> <p>15 explained to us, is you do it in the upper corner</p> <p>16 of the window and you raise it up into the room to</p> <p>17 keep it away from anybody's -- at eye level or</p> <p>18 anybody that would be standing there, because</p> <p>19 there would really be no reason for somebody to be</p> <p>20 high up in a room.</p> <p>21 So blind until the aspect of not being</p> <p>22 able to see it. But there's also, like, a</p> <p>23 rake-and-break component that the SWAT expert</p> <p>24 would be able to explain better than me. So I</p> <p>25 don't know if "blind" would be the right word for</p>
<p style="text-align: right;">127</p> <p>1 policy, in terms of the amount of time that</p> <p>2 officers should wait before using force to enter</p> <p>3 the premises, has changed in the last ten years?</p> <p>4 A I'm not aware.</p> <p>5 Q Okay. Just going to Conclusion 29,</p> <p>6 which is on page 21 of the memorandum at</p> <p>7 LVMPD4846, what was the conclusion of SWAT there</p> <p>8 and what did Metro, through the TRB, validate or</p> <p>9 modify?</p> <p>10 A This had to do with the tools and</p> <p>11 tactics being utilized, one of those being snipers</p> <p>12 or stun sticks, the explosive breaching equipment.</p> <p>13 The CET or surround and call out could be verbally</p> <p>14 improved on, and the board wanted it --</p> <p>15 implementing it to if the department should create</p> <p>16 an approval form for that in a search warrant</p> <p>17 service, and then determine on the form who</p> <p>18 approved it and the justification for why they</p> <p>19 were requesting it and then determine if it should</p> <p>20 be signed by the -- the assistant team leader, the</p> <p>21 team leader, to what level that it should go up</p> <p>22 to.</p> <p>23 And then also determine if a no-knock</p> <p>24 search warrant was requested and approved, a</p> <p>25 deputy chief would need to sign that.</p>	<p style="text-align: right;">129</p> <p>1 it or not.</p> <p>2 Q Okay. I'll reserve that for the SWAT</p> <p>3 expert, because I think that's on that person's</p> <p>4 topics.</p> <p>5 But was -- regarding Conclusion Number</p> <p>6 29, was that unanimous by the TRB?</p> <p>7 A I don't remember.</p> <p>8 Q And are you aware of any changes made by</p> <p>9 Sheriff McMahon or anyone else as a result of the</p> <p>10 conclusions in number 29?</p> <p>11 A I would not be the one to speak on that.</p> <p>12 That would be the SWAT expert.</p> <p>13 Q Okay. Because it concerns a specific</p> <p>14 swat IAP?</p> <p>15 A Well, yes. The board makes the</p> <p>16 recommendations, and then the implementation of</p> <p>17 that is done through the chain of command.</p> <p>18 Q Right after number 29 it says,</p> <p>19 "Recommended action," and then highlighted in</p> <p>20 yellow it says "TBD," which I assume stands for to</p> <p>21 be determined; correct?</p> <p>22 A It does.</p> <p>23 Q Why was that left uncompleted in this</p> <p>24 memorandum?</p> <p>25 A I am not sure.</p>

<p style="text-align: right;">130</p> <p>1 Q Well, whose job was it to make those 2 determinations?</p> <p>3 A After the recommendation is made for 4 them to consider implementing that, it would be a 5 group of people in that chain of command to 6 discuss about what the options are and then what 7 level they should go to, but I'm not sure why that 8 is there.</p> <p>9 Q Well, was it anticipated that somebody 10 would go back and complete this section of the TRB 11 memorandum?</p> <p>12 A I'm not sure.</p> <p>13 Q Also, you know, there's sort of another 14 recommendation that was -- was made here that's 15 not -- not really numbered, but I want you to skip 16 to page 33, which is LVMPD4858.</p> <p>17 In reviewing what happened with this 18 search warrant, did Metro determine that the way 19 these IAPs were submitted and approved was in need 20 of change?</p> <p>21 A There's a lot on this page.</p> <p>22 What are you specifically referencing, 23 sir?</p> <p>24 Q Well, specifically, if you look at the 25 second paragraph from the bottom, it talks about</p>	<p style="text-align: right;">132</p> <p>1 And then they're the ones able to -- 2 with a thorough understanding of what has 3 occurred, being able to fill that out. And then 4 it goes up to the captain to review the entire 5 plan, the plan in its entirety.</p> <p>6 Also have the higher levels of 7 leadership, we get -- we don't really -- our hope, 8 as an agency, is the higher up you go, that 9 there's more experience there. The frequency in 10 which you've done those things, you will have 11 learned from maybe mistakes made in the past, and 12 you could see any potential pitfalls or dangers or 13 unattended consequences to that plan. So that's 14 why it would be from a ground-up approach all the 15 way up to the captain.</p> <p>16 Q And so Metro determined that the 17 top-down approach that was being used was a 18 failure of policy?</p> <p>19 A It wasn't ideal, because it's the 20 opposite of what we just talked about. They might 21 have the -- a summary of what was going to happen 22 or the summary of who they were going after, but 23 then not have all of the specifics all the way 24 down to the ATL.</p> <p>25 So I don't know if you want to call it a</p>
<p style="text-align: right;">131</p> <p>1 what is called a top-down approval of IAPs. And 2 it was decided that that was not effective and 3 that IAPs should start with the team leader and 4 then should go upward in the chain of command.</p> <p>5 In other words, the team leader works on 6 the IAP, then it goes up to Lieutenant O'Daniel 7 and then up to Captain Cole for approval.</p> <p>8 A Correct.</p> <p>9 Q Do you see that?</p> <p>10 A I do see that.</p> <p>11 Q Okay. And so Metro concluded that the 12 top-down method should not be used.</p> <p>13 A Correct.</p> <p>14 Q And why is that?</p> <p>15 A The people with the most information are 16 going to be the assistant team leader and then the 17 team leader. They're going to be really the ones 18 that are going to build the foundational 19 justification for why they want to do the tactical 20 plan the way that they're doing that. They're 21 often the ones that have the direct line of 22 communication with the requesting entities, 23 whether -- in this instance, it would be homicide. 24 They're the ones doing a lot of the back and 25 forth.</p>	<p style="text-align: right;">133</p> <p>1 policy failure or just a better way of doing 2 things, which is the whole intent of the 3 administrative process, and that's what we 4 identify.</p> <p>5 Q Well, which did Metro determine it was?</p> <p>6 A That it would be better going from the 7 bottom up.</p> <p>8 Q But did Metro consider that to be a 9 policy failure or a training failure?</p> <p>10 A I believe we just said it was not 11 effective the way it was currently being done. 12 But in policing, there's a lot of different ways 13 to do things. And that's why we're always trying 14 to evaluate and reevaluate and come up with the 15 best plan to do things. And when incidents 16 happen, we want to look at them and see if there's 17 takeaways to make ourselves better.</p> <p>18 Q Now, the TRB memorandum then sort of 19 turns into discussing the actions of particular 20 officers that were involved. And Metro, through 21 the TRB, determined that Sergeant Scott had not 22 complied with policies and training; correct?</p> <p>23 A Correct.</p> <p>24 But what page are you on now?</p> <p>25 Q Yeah, let me get to that. It's going to</p>

<p style="text-align: right;">134</p> <p>1 be Bates Number 4851, page 26 of the report or 2 memorandum. 3 So Sergeant Scott, what was his title or 4 job at the time of this shooting? 5 A I believe Sergeant Scott was a homicide 6 sergeant. 7 Q And because he's -- was a homicide 8 sergeant, he was one of the people who had to 9 review and sign off on the IAP; correct? 10 A Correct. 11 Q And according to Metro's own 12 investigation, it essentially determined that 13 Sergeant Scott had done so without reading the 14 entire case, including the surveillance logs; 15 correct? 16 A Correct. 17 Q And that was a failure or improper by 18 Sergeant Scott; right? 19 A Yes. 20 Q And for lack of a better word or to 21 state it differently, maybe I should say, Sergeant 22 Scott just rubber-stamped this IAP without really 23 reviewing it, didn't he? 24 A Without -- "rubber-stamp" is an 25 all-encompassing word. I will tell you he did not</p>	<p style="text-align: right;">136</p> <p>1 personnel file? 2 A Not that I'm aware of. 3 Q And then I would like you to look at 4 pages 27 through 33. And this is where actions 5 and findings as to Lieutenant O'Daniel and Captain 6 Cole are discussed; correct? 7 A Correct. 8 Q Now, the findings that are mentioned 9 here, they are identical for those two officers; 10 right? Take a look at them, because what it looks 11 to me like is there were similar conclusions as to 12 both Lieutenant O'Daniel and Captain Cole, but 13 they're being addressed separately in the TRB 14 report. 15 A Yes. 16 Q Okay. And so Metro, through the TRB, 17 agreed with those findings as to Captain Cole but 18 overturned them as to Lieutenant O'Daniel; 19 correct? 20 A They agreed with one of the findings 21 with Captain Cole and, you are correct, did not 22 agree with the findings on -- with 23 Lieutenant O'Daniel. 24 Q Okay. And really -- and this is at the 25 bottom of page 33. It was determined by Metro</p>
<p style="text-align: right;">135</p> <p>1 do all of the things that we would have expected 2 him to do in his duties for reviewing this. 3 Q And he might have been disciplined, but 4 he had retired by the time this occurred, the TRB 5 report was final; right? 6 A That is my understanding. 7 Q Okay. And it did go -- or this finding 8 did go into his personnel file though? 9 A Yes. 10 Q Because sometimes you have people retire 11 and they come back; right? 12 A I'm not sure of the labor laws in effect 13 with it. But I do know if you leave in the middle 14 of an investigation and the investigation is 15 completed, that does go in your file whether 16 you're still working with us or not. 17 Q And then we see this a lot of places in 18 the memorandum, but again here, under the section 19 about Sergeant Scott, it says "Recommended action 20 to be determined." 21 So who was to determine that recommended 22 action? 23 A I'm not sure why that was there. 24 Q Was there any action taken, other than 25 just putting this finding in Sergeant Scott's</p>	<p style="text-align: right;">137</p> <p>1 that Captain Cole should have recognized that 2 there were too many unknown factors and should not 3 have approved the IAP for this warrant; correct? 4 A Correct. 5 Q The IAP that included CET entry? 6 A Correct. 7 Q And did that also include the fact that 8 NFDDs were to be automatically deployed? 9 A I'm not aware of that, if that's yes or 10 no. 11 Q Why were these findings verified or 12 approved by TRB as to Captain Cole but not 13 Lieutenant O'Daniel? 14 A If memory serves me correct, there 15 were -- Lieutenant O'Daniel was out with COVID and 16 not able to respond or be there. She was actually 17 in quarantine. And in that instance, when you 18 lose that middle level of leadership, then it's 19 incumbent upon the captain to take on those 20 responsibilities. 21 And then the captain is the bureau 22 commander and the -- really the final authority in 23 everything that happens. So because -- my memory 24 was that Lieutenant O'Daniel was out with COVID 25 and quarantined and really not in this, and that</p>

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1 it then fell on the captain's shoulders. And then
 2 he even admitted that as much in the -- his turn
 3 to talk in the Tactical Review Board.
 4 Q Give me just a moment to look at
 5 something.
 6 Was that a unanimous decision by the
 7 TRB, that Captain Cole would be found responsible
 8 but not Lieutenant O'Daniel?
 9 A I don't remember.
 10 Q What actions, if anything, were taken
 11 against Captain Cole as a result of this finding?
 12 A I'm not sure.
 13 Q Who would know that?
 14 A His chain of command at the time.
 15 Q So you don't know whether he was
 16 disciplined or retrained in any way?
 17 A If -- if you can give me one moment. I
 18 believe that was addressed on Exhibit 3, if I can
 19 slide over to that.
 20 Q Yeah, so that's a pretty good
 21 transition. So let's look at Exhibit 3 now. This
 22 is a one-page interoffice memorandum that is -- it
 23 says, "Subject: TRB memo addendum."
 24 So using this addendum then, what action
 25 was taken against Captain Cole?

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1 A It says, "Captain Cole's negative
 2 finding was addressed during the Tactical Review
 3 Board." So his acknowledgment of his failures on
 4 that day were addressed by the board, but I -- I
 5 do not know if any discipline came down from it as
 6 a result of it. That would have been his chain of
 7 command that would be doing that.
 8 Q He acknowledged and Metro agreed that he
 9 should not have approved this IAP?
 10 A Correct.
 11 Q One of the recommendations in this
 12 addendum is that the Office of Internal Oversight
 13 create and maintain a matrix to document and
 14 update the status of each recommendation in the
 15 TRB memorandum to ensure completion. And then it
 16 says, "Upon completion of the recommendations, the
 17 finalized matrix will be attached to this
 18 addendum."
 19 Do you see that?
 20 A Where is that at?
 21 Q Well, this is on Exhibit 3. This is the
 22 first recommended action.
 23 A Okay. I do see that.
 24 Q Do OIO ever prepare such a matrix?
 25 A I do not know if they did or not.

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1 Q Have you ever seen it?
 2 A I have not.
 3 Q Would you agree with me that it's not
 4 attached to the addendum?
 5 A I do agree.
 6 Q If the OIO matrix was never prepared,
 7 would Metro agree that that's another failure in
 8 oversight in this case?
 9 MR. ANDERSON: Objection. Form.
 10 Go ahead.
 11 THE WITNESS: It's a recommendation
 12 made by Office of Internal Oversight that was put
 13 in a memorandum up through the chain of command to
 14 the sheriff for recommendation and implementation,
 15 but I do not know if that was implemented or not.
 16 BY MR. BREEDEN:
 17 Q So we have a longer memorandum dated
 18 January 3rd, 2023, and then we have this one-page
 19 addendum dated January 31, 2023.
 20 This one-page addendum, was that the end
 21 of the TRB process?
 22 A For my involvement, the TRB process was
 23 the conclusion of that day when the board convened
 24 and recommendations were made. I would not know
 25 the -- what happens after that with the chair and

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1 the memo that is -- is sent up.
 2 Q In the TRB records, you know, for this
 3 investigation, what documents would exist other
 4 than these two memorandums, which are Exhibits 2
 5 and 3? And then we discussed, there's an audio
 6 recording of at least part of the TRB board
 7 meeting.
 8 What other documents or recordings would
 9 exist?
 10 A Specific to the TRB?
 11 Q Yes.
 12 A None that I'm aware of.
 13 Q Well, didn't you say that there are some
 14 written recordation of the votes?
 15 A They do record the -- the votes. The
 16 members are given the sheets with all of the
 17 findings, very similar to the way that you saw it
 18 in the red and the blue for the positive and
 19 negative outcomes. And then every member votes on
 20 it by checking the boxes and then signs the
 21 bottom. And then those forms are collected, but I
 22 don't know what happens to them from there.
 23 Q Okay. So the last you saw them was when
 24 the TRB board meeting occurred?
 25 A Yes.

<p style="text-align: right;">142</p> <p>1 MR. BREEDEN: Were you going to say 2 something? 3 MR. ANDERSON: I was going to say, you 4 do have them. You know that; right? 5 MR. BREEDEN: Well, I'll look for 6 them. 7 MR. ANDERSON: I can tell you the 8 Bates stamps. 9 MR. BREEDEN: Yeah, please do. 10 MR. ANDERSON: LVMPD004512 through 11 004773. 12 MR. BREEDEN: I'll let you know that 13 in preparing for this deposition, I actually 14 noticed that we were missing some of the 15 Bates-labeled documents. 16 MR. ANDERSON: Okay. 17 MR. BREEDEN: And I'm going to have to 18 have my staff follow up with you regarding that. 19 I don't know if they were Bates-labeled and never 20 sent to us or they were sent to us and didn't make 21 it into our system. I haven't determined that. 22 But I will let you know that we noticed we are 23 missing some of the documents. 24 MR. ANDERSON: Whatever you need. 25</p>	<p style="text-align: right;">144</p> <p>1 our website. Well, I know it's on our website, 2 because she was able to navigate it and get that 3 for me yesterday. 4 Q Okay. Would you agree with me that this 5 OIO report doesn't mention any of the acknowledged 6 failures by Captain Cole? 7 A I am aware. 8 Q Are you aware of any reason why it 9 wouldn't list those important findings? 10 A Well, this is an administrative process, 11 and much like our other internal investigations, 12 we don't release names. The names you do see 13 mentioned here are the names of the officers 14 involved in the shooting, because those names have 15 already come out in the FIT report and in the 16 72-hour briefing. 17 And as a part of executive privilege, 18 the sheriff is able to look at things that were 19 discussed in an effort to make ourselves better 20 and be able to critique and criticize things that 21 we did and make internal improvements with that 22 and not put people's names for administrative 23 issues or finding out to the public. 24 Q In this entire document, does it ever 25 use the phrase "knock and announce"?</p>
<p style="text-align: right;">143</p> <p>1 BY MR. BREEDEN: 2 Q Okay. The next document I would like to 3 discuss has been labeled Exhibit 5 for this 4 deposition. This is the OIO. It says, "Key 5 findings, conclusions, or recommendations." 6 Have you seen this document prior to 7 today? 8 A I have. 9 Q Did you take any part in preparing this 10 document personally? 11 A I did not. 12 Q Who prepared it? 13 A I believe it comes out of the Office of 14 Internal Oversight, and then our general counsel 15 looks at it. And then it is put out on their -- 16 their web page. 17 Q Yeah. The OIO key findings, 18 conclusions, and recommendations, these are meant 19 to be released to the public; correct? 20 A Correct. 21 Q Why is this particular document -- if I 22 were to look up this OIS on Metro's website, why 23 is it not available through the website? 24 A I was able to have our general counsel 25 pull it up for me yesterday. I believe it is on</p>	<p style="text-align: right;">145</p> <p>1 A I don't know. I could go through it, 2 but I'm not familiar if it does or not. 3 Q I'll represent to you when I reviewed 4 it, it doesn't use that term. 5 Don't you think it's an important 6 finding of TRB and CIRT that the officers did not 7 allow a sufficient time after the announcement for 8 Mr. Williams to come to the door? 9 A I know that the concerns we had and 10 looked at administratively were addressed 11 internally and through policy. And we have the 12 ability to push out information to the public, and 13 this is what we decided to push out. 14 We don't always get into the specifics 15 of SWAT tactics or police operations, just because 16 this is publicly available and anybody could look 17 at that and it could cause harm to our officers in 18 the future if they had to go do something like 19 that. So we're very -- I think we're very 20 consistent with the information that we do put out 21 on internal investigations. 22 And this is the same thing where we're 23 going to put out certain findings on there, but we 24 also have the executive privilege and the sheriff 25 is able to address internal administrative issues</p>

<p style="text-align: right;">146</p> <p>1 internally as well.</p> <p>2 Q Why does Metro not release the TRB</p> <p>3 report or memorandum?</p> <p>4 A Because the TRB is an internal document</p> <p>5 as a result of an administrative process, and we</p> <p>6 do not release our internal investigations as a</p> <p>7 police department.</p> <p>8 Q Do you agree that some of the</p> <p>9 information in the TRB memorandum is simply</p> <p>10 factual information?</p> <p>11 A I agree that administrative</p> <p>12 investigations can contain factual information,</p> <p>13 much like an internal affairs investigation. And</p> <p>14 we do not release those or make those public,</p> <p>15 because they are part of an administrative process</p> <p>16 looked at our standard, which is higher than what</p> <p>17 is required by the law, and allows us to really</p> <p>18 look at those and see if there is any issues or</p> <p>19 ways to improve and to be able to do it on a</p> <p>20 constant basis of a self-assessment and a review.</p> <p>21 But in being consistent with our other</p> <p>22 products that we put out, administrative hearings</p> <p>23 and investigations, the information does not go</p> <p>24 out to the public, those reports.</p> <p>25 Q Why is the FIT report released to the</p>	<p style="text-align: right;">148</p> <p>1 (Whereupon, the deposition</p> <p>2 concluded at 1:22 p.m.)</p> <p>3 * * * * *</p> <p>4</p> <p>5</p> <p>6</p> <p>7</p> <p>8</p> <p>9</p> <p>10</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>
<p style="text-align: right;">147</p> <p>1 public then?</p> <p>2 A Because the FIT report is a criminal</p> <p>3 investigation, and criminal investigations are</p> <p>4 part of public record. And that is submitted to</p> <p>5 the district attorney's office. So that is a</p> <p>6 completely different thing than an internal</p> <p>7 administrative board or function. That's no</p> <p>8 different than any other criminal report that we</p> <p>9 do that is subject to public record.</p> <p>10 MR. BREEDEN: Just a moment.</p> <p>11 Okay. Deputy Chief, thank you for</p> <p>12 your time here today. I think those are all of my</p> <p>13 questions.</p> <p>14 Mr. Anderson, do you have anything?</p> <p>15 MR. ANDERSON: No, I don't have any</p> <p>16 questions. Thank you. My voice is gone. I</p> <p>17 didn't say a word and lost my voice.</p> <p>18 THE WITNESS: Thank you.</p> <p>19 THE VIDEOGRAPHER: This concludes the</p> <p>20 deposition of Reggie Rader, a 30(b)(6), consisting</p> <p>21 of one disk. The time is 1:22 p.m. We're off the</p> <p>22 record.</p> <p>23 THE COURT REPORTER: Mr. Anderson, do</p> <p>24 you need a copy of the transcript?</p> <p>25 MR. ANDERSON: I do want a copy.</p>	<p style="text-align: right;">149</p> <p>1 CERTIFICATE OF COURT REPORTER</p> <p>2</p> <p>3 STATE OF NEVADA)</p> <p>4) SS:</p> <p>5 COUNTY OF CLARK)</p> <p>6</p> <p>7 I, Heidi K. Konsten, Certified Court Reporter</p> <p>8 licensed by the State of Nevada, do hereby certify</p> <p>9 that I reported the deposition of REGGIE RADER,</p> <p>10 commencing on February 21, 2025, at 9:08 a.m.</p> <p>11 Prior to being deposed, the witness was duly</p> <p>12 sworn by me to testify to the truth. I thereafter</p> <p>13 transcribed my said stenographic notes via</p> <p>14 computer-aided transcription into written form,</p> <p>15 and that the transcript is a complete, true and</p> <p>16 accurate transcription and that a request was not</p> <p>17 made for a review of the transcript.</p> <p>18 I further certify that I am not a relative,</p> <p>19 employee or independent contractor of counsel or</p> <p>20 any party involved in the proceeding, nor a person</p> <p>21 financially interested in the proceeding, nor do I</p> <p>22 have any other relationship that may reasonably</p> <p>23 cause my impartiality to be questioned.</p> <p>24 IN WITNESS WHEREOF, I have set my hand in my</p> <p>25 office in the County of Clark, State of Nevada,</p> <p>Heidi K. Konsten</p> <p>Heidi K. Konsten, RPR, CCR No. 845</p>

DECLARATION OF DEPONENT

I, REGGIE RADER, deponent herein, do hereby declare under penalty of perjury that I have read the within and foregoing transcription of my testimony taken on February 21, 2025, at Las Vegas, Nevada, and that the same is a true record of the testimony given by me at the time and place hereinabove set forth, with the following exceptions:

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REGGIE RADER